

**Developing a Modernized Federal Response Plan for
Canadians Victimized Abroad in Acts of Mass Violence:**

*How Canada can address the needs of cross-border victims
based on international best practices*

PART I. THE NEEDS OF CROSS-BORDER VICTIMS AND THE CURRENT
SYSTEMS ACROSS THE FIVE EYES

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Executive Summary

Canadian citizens have long been victim to terrorist attacks, both at home and abroad. Despite this long-standing phenomenon, there is a pressing policy gap when it comes to these Canadians that are victimized abroad (“cross-border victims”). With multiple jurisdictions involved, and little to no policy direction, these vulnerable individuals can frequently fall through the cracks, without having their needs met nor respected.

With transnational terrorism ever-present and growing, it is more important than ever to ensure that Canada has a comprehensive and coherent policy to address the dynamic needs of Canadians who are victimized abroad. This two-part report series aims to assist in closing this gap, and to begin the process of developing a comprehensive, federal, victims-centred policy with respect to Canadians victimized abroad in acts of terrorism, war, and mass violence.

This first report undertakes a comprehensive review of the relevant literature and identifies and expounds on the well-established needs of these victims: emergency response, respect and recognition, protection, support including information, access to justice, and compensation and restoration. It also reviews existing systems that are presently used to address cross-border victims needs across the Five Eyes; namely, Canada, the United States, the United Kingdom, Australia, and New Zealand.

This will lay the groundwork for the forthcoming “Part II” of the series, which will analyze these systems in connection with each other and with the literature, and consider how they address victims’ needs. This forthcoming analysis will ultimately discern a series of *best practices* that will illuminate how governments should best address the dynamic needs of cross-border victims over time. The best practices will ultimately ground specific recommendations for Canada, to assist in the development of a comprehensive, federal, victims-centred policy with respect to Canadians victimized abroad in acts of terrorism, war, and mass violence.

Introduction

When Air India Flight 182 was bombed by the Babbar Khalsa terrorist group on June 23, 1985, the plane crashed into the Atlantic Ocean over Ireland. All passengers and crewmembers were killed, and this included 268 Canadian citizens.

When Ukraine International Airlines Flight 752 was bombed over Iranian airspace on January 8, 2020, all 176 passengers and crewmembers were killed, and over 100 of them had ties to Canada. At least 55 were Canadian citizens.

When a series of four coordinated terrorist attacks rocked the United States on September 11, 2001, at least 24 of the nearly 3,000 fatalities were Canadian.

These are three examples of many instances of Canadians being victimized, while outside of Canada, by terrorism, acts of war, and mass violence.

Despite this long-standing phenomenon, there is a pressing policy gap with respect to these Canadians that are victimized abroad. With multiple jurisdictions involved, these Canadians often report experiencing immense difficulty having their needs met and struggling to deal with officials who do not seem to know what to do with them.

There has long been a need to close this gap, and the need is growing. The threat of terrorism and mass victimization of Canadians is more acute than ever, as the world becomes smaller. Canadians travel today more than ever, and extremist groups are becoming increasingly transnational in their capabilities and reach.

To provide just a handful of examples of this growth, the U.N. Security Council Counter-Terrorism Executive Directorate (CTED) reported in April 2020 that there has been a 320 per cent rise in attacks carried out by ideologically motivated right-wing extremists over the past five years, and that Australians, Europeans, and North Americans are most at risk. The U.N. Security Council reported in January 2020 that the Islamic State is presently in the midst of re-establishing itself in Iraq and Syria, where it is “mounting increasingly bold insurgent

attacks”. In nearby Afghanistan, the Taliban continues to launch attacks and is presently considered to be “stronger now than at any point in the last eighteen years” (Maizland & Laub 2020). Finally, Hezbollah has expanded its reach throughout Africa, Asia, Latin America, and Europe (Levitt 2020). Hezbollah has stockpiled weapons and explosives at bases around Europe, which in 2020, the U.S. State Department’s counterterrorism coordinator called a “clear and present danger to the U.S. [and its allies]” (Coughlin 2020; Karam 2020).

Clearly, it is more important than ever to ensure that Canada has a comprehensive and coherent policy to follow when Canadians are victimized abroad. This is essential in ensuring that these victims are taken care of, and that they do not fall between the cracks. They are a growing, vulnerable segment of the population that must be specifically addressed.¹

This two-part report series aims to assist in closing this gap, and to begin the process of developing a comprehensive, federal, victims-centred policy with respect to Canadians victimized abroad in acts of terrorism, war, and mass violence.

“Part I” –the present document– lays the groundwork for this endeavour by reviewing the needs of cross-border victims and looking at the current systems that are used to address those needs across the Five Eyes.

The first section of this part reviews the existing literature on these victims’ needs. The second section reviews existing systems that are presently used to address cross-border victims, in Canada, the United States, the United Kingdom, Australia, and New Zealand.

“Part II” –publication forthcoming– will build on the information contained herein to analyze the systems that are currently used, illuminate best practices for addressing these victims’ needs, and propose targeted recommendations for Canadian policy.

¹ Throughout this report, “cross-border victims” will be used as a shorthand to refer only to *Canadians who have been victimized abroad* (or nationals of the state that is being discussed, that were victimized abroad). Although *foreign nationals who are victimized in Canadian/domestic terrorist attacks* are also a type of cross-border victim that merits discussion, this is beyond the scope of this present report.

1. The Needs of Cross-Border Victims in the Literature

Canadians who are victimized overseas by terrorism, acts of war, and mass violence have specific and unique needs. In order to effectively develop a federal response plan for such victims, it is essential that we begin by articulating their unique and dynamic needs. This is done by way of a comprehensive review of the literature. The existing literature on victims' needs, including the needs of victims of terrorism and cross-border victims, is extensive, and is based on academic theories, quantitative and qualitative analyses, and countless interviews of victims from across the globe. A Canadian federal response plan must be grounded in these findings, in addition to the lessons learned from the Five Eyes (covered in following sections), so that it constitutes a victims-centred approach that directly responds to the dynamic needs of cross-border victims of terrorism, acts of war, and mass violence, over time.

1.1. The Pyramid Model

Throughout the academic literature, the needs of any particular victim group are often conceptualized as a pyramid (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017). At the bottom rung, there are broad sets of needs that are common to all victims of crime; these are established in the literature and generally split into five categories: respect and recognition, protection, support including information, access to justice, and compensation and restoration (INVICTM 2018; Ivanković et al 2017). These broad sets of needs may be exacerbated in various ways when victims have experienced terrorism and mass violence (INVICTM 2018). There are also needs that are specific to each victim subgroup. Finally, at the top, there are individual needs for any given victim, that are at play based on victims' personal characteristics, such as coping skills, stressful life events, and preexisting health conditions (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017). Following this model, this report conceptualizes the needs of cross-border victims of terrorism, acts of war, and mass violence using a pyramid structure.

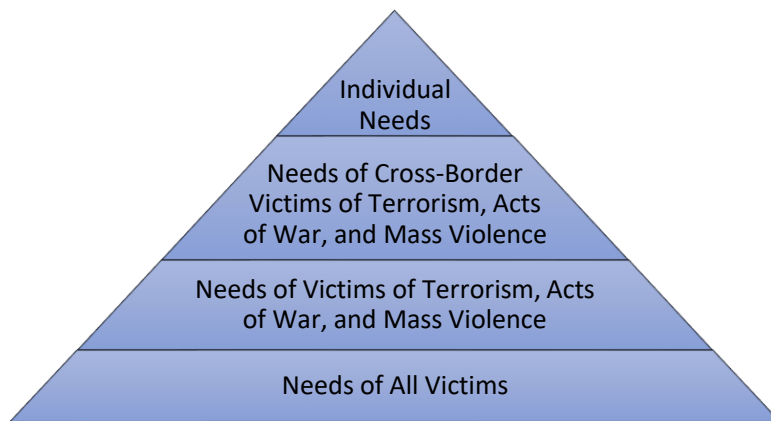


Figure 1. Needs of Cross-Border Victims of Terrorism, Acts of War, and Mass Violence

1.2. Needs Categories

The needs of all victims are well-established in the literature as generally falling into five categories: respect and recognition, protection, support including information, access to justice, and compensation and restoration (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017). This is in addition to a critical immediate need category of emergency response (EU Centre of Expertise for Victims of Terrorism 2021).

The above needs of all victims are exacerbated, in a variety of specific ways, in cases where victims are subject to terrorism, acts of war, and mass violence (INVICTM 2018). The needs of *cross-border* victims of terrorism, acts of war, and mass violence – face even further complications and exacerbations. There are additional needs resulting as well, in the context of terrorism, acts of war, and mass violence –such as the need for commemoration and the need for media protection– but in all the relevant literature, these additional needs are still generally expressed as falling within one of the six main categories described above (for example, commemoration is within the need for respect and recognition; and media protection is within the need for protection) (EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017; INVICTM 2018). This present analysis will follow this trend and analyze the needs of these victims using the established six main need categories, explaining in each category the particularities as they relate to victims of terrorism, acts of war, and mass violence, and cross-border victims of such crimes.

1.3. Emergency Response

The importance of providing emergency services to victims is well-established in the literature (EU Centre of Expertise for Victims of Terrorism 2021). It is important to immediately address the safety and security of victims, and this encompasses not just immediate physical security. Victims need to be safe and secure, receive emergency physical and psychological care, and in some cases be provided with food and drink (EU Centre of Expertise for Victims of Terrorism 2021).

The importance of providing immediate emergency services to victims is particularly important in cases where victims experience terrorism, acts of war, and mass violence (EU Centre of Expertise for Victims of Terrorism 2021). The successful provision of emergency services to these victims, and particularly the provision of emergency psychological care, has been shown to significantly reduce long-term psychological effects and improve victims' resilience (Smith & Jankoski 2012; Cloak & Edwards 2004). The provision of emergency response measures is also often more challenging when it is in response to these crimes. Collaboration between multiple agencies and ground forces may be necessary. Triage becomes important. In fact, the urgency of triaging victims is considered essential in mass-casualty terrorism events (Adini & Peleg 2013). The ability to triage victims quickly and efficiently has been noted as critical for the provision of effective care, both physical and psychological (Adini & Peleg 2013).

The provision of immediate emergency services to these victims is even further complicated when dealing with cross-border victims. For any terrorist attack or incident of mass violence, as noted, collaboration between multiple agencies and ground forces may already be necessary. When this happens abroad, multiple jurisdictions and consular services join the mix. Consular services will have to coordinate and collaborate with a variety of local service providers, and deal with victims that will have unique and complicated needs. Depending on where the attack occurs, there may be language barriers (INVICTM 2018), poor local infrastructure, or security complications.

Preparation is important. There is a whole body of literature on the need for governments to undertake measures for national preparedness for mass casualty events. Israeli sources on this issue are particularly noteworthy (Adini & Peleg, 2013). These efforts – which may include emergency management systems including contingency planning, command and control, centrally coordinated response, cooperation, and capacity building – may be extremely effective in setting governments up with the infrastructure to maximize emergency response, particularly for victims of terrorism, acts of war, and mass violence, and particularly for cross-border victims of such crimes. A fulsome discussion of national preparedness is beyond the scope of this report, but this is notable as a possible area of further research and discussion.

1.4. Respect and Recognition

All victims have a need for respect and recognition. As noted in a 2018 report published by the United Nations, “every victim needs respect and recognition from the government and other support providers” (INVICTM 2018). Victims need to be recognized as victims and their suffering must be acknowledged (Ivanković et al 2017). They need to be treated with sensitivity, respect, fairness, empathy and dignity (EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017). This is critical for the healing process (INVICTM 2018).

This is especially important when it comes to vulnerable groups of victims such as children or victims of terrorism. In fact, the need for respect and recognition is “one of the most important needs voiced by victims of terrorism” (Ivanković et al 2017). These victims have a need to be recognized specifically as victims *of terrorism* (EU Centre of Expertise for Victims of Terrorism 2021). Part of the complexity therein is that not all jurisdictions will have clearly defined what constitutes an act of terrorism or who constitutes a victim of terrorism.

1.4.1. Commemoration, Memorials, and Peer Support Groups

Commemoration is one of the more important ways of recognizing victims of terrorism (INVICTM 2018). Organizing commemorative events and setting up memorials for victims who have been harmed or killed is crucial in communicating to them that they have not been forgotten (INVICTM 2018; Ivanković et al 2017). It also communicates to them that their

“status as victims” is recognized and respected, and it provides a physical space for victims to come together (INVICTM 2018; Ivanković et al 2017). Families should be included in the planning on commemorations and memorials, as they may have different visions regarding what the commemoration or memorial should entail (for example, should it be focused on the grief, or encompass political protest) (INVICTM 2018).

There are different types of memorials. There are “primary” memorials that honour victims of terrorism and mass violence, such as days of remembrance, physical memorials, and the spontaneous memorials that tend to arise in the immediate aftermath of the event (Ivanković et al 2017). Then there are secondary forms of memorials that include commissions of inquiry, government statements, and peer support groups (Ivanković et al 2017). Both are important.

Peer support groups are particularly important, and these serve the additional goal of providing psychological and emotional support (Hoffman & Kasupski, 2007; Watkins, 2017). Not only do peer support groups provide respect, recognition, and solidarity – but peer support groups can actually serve to help mitigate the psychological aftereffects of victims of mass violence and terror (Hoffman & Kasupski, 2007; Watkins, 2017).

Addressing these needs contains added complexities when dealing with cross-border victims. Cross-border victims should be informed about the location and timing of memorial services, and in a language that they can understand (INVICTM 2018). This relates to the need for information – a particular challenge for cross-border victims, as will be discussed below.

1.5. Protection

Victims have needs relating to protection. They need protection from re-victimization, and protection from secondary victimization.

1.5.1. Re-victimization

The prospect of re-victimization refers to the possibility that the offender and/or their supporters targets the victim again, or the possibility that the victim will suffer from a new

offence (Ivanković et al 2017). The likelihood of re-victimization will depend on the specific circumstances of the case. For example, re-victimization may be more likely when an attack was targeted to the specific victim or targeted specifically to a religious or ethnic group of which the victim is a member (Netten & van de Donk 2018).

In cases of terrorism, acts of war, and mass violence, the likelihood of re-victimization depends on similar types of circumstances. For example, one might consider the motivations behind the attack and the prevalence of like-minded others (Netten & van de Donk 2018). Were victims targeted because they were Jewish? Was the attack conducted by a member of The Base (a listed terrorist group motivated by white supremacist ideology)? Are there many members of The Base still at large that could “finish the job”? Or was the attack random? These are the types of circumstances that might be germane when looking at what degree of protection is required. For instance, if a Jewish synagogue was targeted by a member of a white supremacist group, a necessary protective measure might be added security at that synagogue and those nearby. Of course, this is not to say that random events do not merit protective measures. If there are random bombings at transport hubs throughout a city, for example, a necessary protective measure might be added security at transport hubs.

1.5.2. Secondary Victimization

Victims also need protection from secondary victimization. Secondary victimization may occur if government officials or other support providers engage in behaviours or attitudes that are insensitive or “victim-blaming” (Ivanković et al 2017). As an example, secondary victimization may result from repeated and insensitive interviews, or having to come face-to-face with the offender in a courtroom (Ivanković et al 2017). Specific protective measures, such as appearing by video link, can assist in instances of the latter.

In cases of terrorism, acts of war, and mass violence, secondary victimization may also occur through excessive or insensitive media attention (Ivanković et al 2017).

The risks of secondary victimization may be particularly exacerbated for cross-border victims of these crimes. These victims, in the aftermath of a terrorist attack, act of war, or mass

violence, are forced to confront a foreign jurisdiction with which they are unfamiliar; navigate travel arrangements and decisions; and figure out which government will be providing them with each particular support (INVICTM 2018). They might additionally be dealing with a jurisdiction that speaks a different language or has different customs (INVICTM 2018). All these complications can make an already-stressful situation completely untenable for cross-border victims, which can contribute to secondary victimization.

1.6. Support Including Information

Victims need support, and often in a variety of areas. This includes needs for practical support, medical care, and specialized psychological trauma care (EU Centre of Expertise for Victims of Terrorism 2021). It also includes the provision of information (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021). These needs for support begin immediately and can extend into the medium- and long-term (Ivanković et al 2017). In cases of terrorism, acts of war, and mass violence –and in particular for cross-border victims of such crimes– these needs are complicated and exacerbated.

1.6.1. Practical Assistance

The literature has found that when victims of terrorism and mass violence have a case-manager to assist in guiding them through the maze of information, support, proceedings, et cetera – they benefit in a variety of ways (INVICTM 2018). First, they are practically assisted in obtaining supports. Second, they feel recognized and respected. And third, they have more positive psychosocial outcomes long-term. On the contrary, if victims are bogged down by practical difficulties in trying to access and obtain support, this has been shown to exacerbate psychological consequences of the trauma (INVICTM 2018). Two countries that presently provide case managers are the Netherlands and the United States (INVICTM 2018).

Case-managers should be long-term, as victims’ needs change and evolve over time (INVICTM 2018). Moreover, some support needs might only arise at later stages. For instance, victims might need practical assistance to commence new employment after time off to heal, or to move domiciles (Ivanković et al 2017).

Individuals who have been victimized abroad are particularly vulnerable and in need of practical support. Their need for a case-manager will be even more pressing. The variety of systems available, across multiple jurisdictions, will be exceptionally difficult for them to make sense of without a guide person providing assistance.

These cross-border victims will need practical assistance in a variety of areas, stemming from their unique circumstances, including:

- i. Language: These victims may not be able to communicate with local support services, including first responders and law enforcement, without translators.
- ii. Travel: These victims may wish to return to their home country following an attack. They may face practical difficulties related to this; their passports may have been lost or destroyed in the attack, and/or they may require assistance with additional costs incurred, or with finding a flight.
- iii. Distance: If and once these victims are home, they may require assistance communicating with authorities and support providers in the foreign jurisdiction.

1.6.2. Specialized Medical Care

All victims need medical care. For victims of terrorism, acts of war, and mass violence, the medical care required will in many cases require specialization. There is a need to provide these victims with physical health services that are timely and convenient, high quality, specialized, and capable of spanning to the long-term. Many of these victims may require long-term rehabilitation and/or physical therapy (Ivanković et al 2017).

When individuals are victimized abroad, this may raise additional, novel complications. For instance, if a victim requires specialized medical care immediately, there are risks that the medical systems in the foreign jurisdiction where he or she was attacked, have either lower-than-acceptable standards or prohibitively high costs. Some jurisdictions actually have a combination public/private healthcare system that is both of those things simultaneously – the public system may be unacceptable in terms of standards of care, while the private system may be prohibitively expensive and not covered by the individual’s insurance. Further, these

victims may face difficulties transitioning any immediate-term care received abroad, into long-term care back at home.

1.6.3. Specialized Psychological Care

Victims of terrorism, acts of war, and mass violence may require specialized psychological care. The literature points to elevated risks of developing PTSD and other trauma and anxiety disorders (Pereda 2013; INVICTM 2018). Some studies point to a prevalence rate that may be as high as 44% (Gabriel et al 2007). First responders are also at risk (Ivanković et al 2017), as is the wider affected community (INVICTM 2018). For instance, after the 9/11 attacks, a reported half-million people in Manhattan, New York, developed PTSD (Galea et al 2002).

Specialized psychological care should be available starting immediately after the attack and lasting for as long as the patient requires it (INVICTM 2018; Smith & Jankoski 2012). Victims' psychological trauma can last a lifetime and, in some cases, may have trans-generational impact (INVICTM 2018). There is also research that suggests that psychological problems can develop only later in some instances, when they are triggered by further events (INVICTM 2018; Ivanković et al 2017). They may also be triggered or worsened by instances of re-victimization and secondary victimization (Ivanković et al 2017). This underscores the need of long-term availability of specialized psychological care for these victims.

Related to specialized psychological care needs are the needs for outreach and for education/information. Victims may not always know that help exists (Ivanković et al 2017). Many might also be reluctant to seek out help (Ivanković et al 2017). This makes it important to reach out to victims – to let them know that specialized psychological support is available, and to outline the various psychological symptoms that they may experience following a mass attack, so that they can recognize them if and when they occur (Ivanković et al 2017). These dovetail with both the need for practical support and the need for information.

When individuals are victimized abroad, this may raise additional, novel complications. The same complications with respect to medical care for individuals victimized abroad, apply with respect to psychological care. When individuals are victimized abroad, they may require

psychological assistance immediately (Smith & Jankoski 2012; Cloak & Edwards 2004). When this occurs in a foreign jurisdiction, there are risks that the local psychological systems are unacceptable in terms of standards of care and/or cost. Further, these victims may struggle to transition immediate-term support into long-term care back home.

1.6.4. Information

Victims' need for information begins immediately, and this need is intensified in cases of terrorism, acts of war, and mass violence. A balance needs to be struck between providing information as *quickly* as possible in the aftermath of the attack, and providing *accurate* information (Ivanković et al 2017). Sometimes, some delay will be justified: it would be psychological damaging to, for example, tell a family member that their relative is deceased when they are not (or vice versa).

Victims of terrorism, acts of war, and mass violence must be promptly informed of the current situation; where to obtain up-to-date information; where to go to receive support services; and the nature of their rights as victims (INVICTM 2018). This last category ensures that victims are informed of their rights to emergency response, respect and recognition, protection, support including information, access to justice, and compensation and restoration.

There are different ways in which government officials and other support providers can provide information to victims. These include the establishment of dedicated websites, the use of flyers and brochures, media and press including social media, and dedicated helplines (INVICTM 2018). Websites are considered to be one of the most advantageous methods of providing "clear, easily accessible, accurate and up-to-date information", especially because a general framework can be put together in advance, and then a dedicated website can be customized quickly in the aftermath of a mass event (INVICTM 2018). Media and social media are considered valuable as well, but there is a need to train media professionals so as to ensure this is done properly, given the demonstrated risks that insensitive or excessive media coverage may cause secondary victimization (INVICTM 2018). Finally, dedicated helplines may be useful, but they should register calls and record information, so that victims are not subject

to repeat questioning, and include a call back service, where service providers can easily follow up with answers to victims' questions (INVICTM 2018). Any helpline or website should ideally be available in multiple languages, stay operational for as long as is necessary, and protect individual privacy rights (INVICTM 2018; Ivanković et al 2017). For helpline staff, support should be provided, as they are susceptible themselves to vicarious trauma symptoms (INVICTM 2018).

Helpline call staff should also be coordinating with other support providers such as law enforcement. This coordination presently exists in the United Kingdom (INVICTM 2018). This coordination means that if the helpline receives a call about a missing family member, law enforcement can seamlessly jump in to conduct searches for these missing persons (INVICTM 2018). This is a good practice internationally (INVICTM 2018).

No matter the method, information provided to victims should be delivered directly, truthfully, and empathetically, with respect, sensitivity, and recognition (INVICTM 2018).

The need for information is exacerbated and complicated for those victimized in terrorism, acts of war, and mass violence while abroad. From a procedural standpoint, these victims may not be familiar with the local customs and systems, and they may not have any idea as to how to obtain support and information from local law enforcement and other support providers. Consular officials may not be best placed to assist in certain uniquely local tasks, such as searching for missing persons on the ground, or emergency triaging. But it may, in many cases, be up to these officials to facilitate the necessary communications and supports. Then, substantively, these victims will need to be provided with additional and often complicated information. For instance, they will need to be provided with information regarding which jurisdiction they should approach with various issues. They will need to be provided with information regarding their eligibility for certain programs including legal aid. They will need to be provided information regarding possible travel arrangements, consequent costs incurred, transfer of medical records, and more. In short, the substance of the information provided will be different and further complicated by their status as cross-border victims (INVICTM 2018). And this complex communication must continue long-term, where relevant.

Issues may arise down the line, for instance, related to annual memorials (in either jurisdiction) or criminal proceedings (again in either jurisdiction) (INVICTM 2018).

1.7. Access to Justice

Victims need access to justice. This can be broken down into two categories: the “wanting to see justice is done” and the “wanting to be confident about how it is achieved” (Ivanković et al 2017). The former is characterized as distributive justice, or outcome-focused, while the latter is characterized as procedural justice (Ivanković et al 2017). Both are important for a victim’s healing and resilience (INVICTM 2018). This includes the need to have full access to criminal proceedings and be able to participate in them; at a minimum, they must enjoy the right to be heard and be made aware of crucial dates and decisions (Ivanković et al 2017).

Beyond access to justice, criminal proceedings provide a degree of recognition and can generate information about what happened for the victims (Netten & van de Donk 2018). It can also provide catharsis, and potentially generate additional compensation and reparations. The catharsis, and psychological effects, relate to a victim’s ability to retake autonomy and control of their fate (Shnabel & Nadler 2015). This is illustrative of the interconnected nature of these need categories.

The provision of legal aid is an important element of access to justice, particularly where individuals have been victimized by terrorism, acts of war, and mass violence (INVICTM 2018). The provision of legal aid is particularly challenging in these types of cases as the costs associated with legal proceedings can be debilitatingly high. Beyond the increased complexity of such cases in many instances, there may be hundreds or thousands of victims in mass incidents, making the governmental cost of providing legal aid incredibly high (Ivanković et al 2017). There is a risk that with costs that high, legal aid will simply not be provided.

An additional obstacle is that terrorism, acts of war, and mass violence are sometimes committed by foreign terrorist groups, and sometimes supported by foreign states. Further, in cases utilizing suicide bombers, the front-line perpetrator is deceased. These unique facets can result in difficulties surrounding who to prosecute and/or who to sue. In certain

jurisdictions, only terrorist organizations and state-sponsors that are on a specially designated list can be targeted in lawsuits. Depending on the unique circumstances of the case, combined with the state of law in the relevant jurisdiction, access to justice may thereby be limited.

A further complicating factor when it comes to suing or prosecuting foreign terrorists responsible – is that states may be concerned by the potential foreign policy implications of such actions, particularly as they relate to potential suits or prosecutions of state sponsors of terrorism (Del Villar & Glasberg 2015). Such foreign policy concerns might therefore serve to limit victims’ access to justice in certain circumstances; this should be kept in mind, and advocacy for victims’ rights should remain a priority in such instances.

Individuals victimized abroad in instances of terrorism, acts of war, and mass violence, may face even greater difficulties in having their access to justice needs met. For one thing, they may be excluded from certain justice programs due to residency requirements, such as legal aid programs. They may not know in which jurisdiction to launch or join a lawsuit. Their lack of familiarity with the foreign justice system may complicate matters – further underscoring the need for these victims to be provided with information (INVICTM 2018).

1.8. Compensation and Restoration

All victims may need financial compensation to assist with the financial impacts of a victimization event. Beyond that, all victims may need restoration measures in order to facilitate restorative justice processes and overall recovery (EU Centre of Expertise for Victims of Terrorism 2021). Compensation and restoration measures might include monetary payments, reimbursements, medical assistance, payment of phone bills, heating payments, and/or mortgage payments (INVICTM 2018).

Compensation and restoration are particularly important when dealing with victims of terrorism, acts of war, and mass violence. These events can bring with them staggering financial costs for victims, and they need to be assisted in this regard. Further, these victims need restoration measures in order to facilitate restorative justice processes and overall recovery (EU Centre of Expertise for Victims of Terrorism 2021). Beyond the obvious financial

assistance these measures provide in helping to promote recovery, they are an important aspect of respect and recognition as well (INVICTM 2018).

When it comes to compensating victims of terrorism, acts of war, and mass violence, the process can be complicated. States may be hesitant to provide financial assistance, due to fears that this would effectively abdicate the foreign terrorist group or state sponsor of any real or perceived financial liability (Del Villar & Glasberg 2015). However, the 2013 U.N. Emmerson Report clearly recommends that states provide reparations regardless of state responsibility, advocating for a human rights and victim-centered aid.

Victims' needs for compensation and restoration are further exacerbated when the attack occurs abroad (INVICTM 2018). For one thing, these victims may have increased costs, as they may need to pay for flights and/or unexpected accommodations, food, international communications such as long-distance calling, and medical bills (INVICTM 2018). Procedurally, the process is more complicated as well. Cross-border victims will often be unclear on which jurisdiction to go to for compensation and restoration. If they go to the foreign jurisdiction where the attack occurred, it will be up to that state's laws and policies whether or not they will be compensated as a foreign national. In some cases, if an individual is victimized abroad in a state with a weaker economy, and they receive compensation from that state, the payout may be smaller than the victim needs to cover expenses at home, where cost of living is higher (Albrecht & Kilching 2007). Albrecht & Kilching (2007) praise the U.K. in particular for their efforts to "top up" those payouts for their overseas victims; however, they, along with other literature on this topic, trend towards continued calls for increased cooperation among governments involved to aid in providing adequate resources the first time around.

1.9. Individual Needs

Beyond these needs that are common to certain classes of victims – there are certain needs that will be specific to the individual.

Ultimately, the provision of services must be as victim-centred as possible, in recognition of the fact that individual needs will differ depending on all of the following (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017):

- i. Personal characteristics, including previous victimization and stressful life events
- ii. Preexisting health conditions
- iii. Mental health
- iv. Social network
- v. Socio-economic situation
- vi. Daily stressors and coping skills

2. Current Systems in the Five Eyes

In order to propose a federal response plan to address the dynamic needs of Canadians victimized abroad, it is essential to discern not just the precise needs of such victims, but also current processes and systems at play in Canada that might presently address those needs. It is also important to analyze the relevant processes and systems at play across the remaining Five Eyes, namely, the United States, the United Kingdom, Australia, and New Zealand.

It is current systems in these jurisdictions, in concert with the insights gained from the literature review, that will assist in elucidating international best practices, and grounding targeted recommendations for a Canadian policy, forthcoming in Part II of this report series.

When looking at current systems across the Five Eyes, this report considers the laws and policies in each state, as well as the lived experiences of cross-border victims, interviewed for purposes of this report.

2.1. Canada

The current Canadian legal and policy system with respect to cross-border victims of terrorism, acts of war, and mass violence is comprised of the following: the Canadian Consular Services Charter; the Canadians Victimized Abroad Fund; and the Justice for Victims of

Terrorism Act (Government Support: Canada). None of these are specifically geared towards cross-border victims of terrorism, acts of war, and mass violence – but all still illuminate what services and capacities are presently offered to these cross-border victims.

2.1.1. The Canadian Consular Services Charter

Canada adheres to the Canadian Consular Services Charter (CCSC) in its determination of services offered to overseas victims. It is not specific to cross-border victims of terrorism, acts of war, and mass violence, but rather, general to all overseas Canadians.

The CCSC states that Canadian consulates may do the following:

1. Help in a medical emergency by providing a list of local doctors and hospitals
2. Provide advice and contact information for local police and medical services to victims of robbery, sexual assault or other violence
3. Provide assistance in cases of missing persons or the abduction of a child to another state
4. Replace a lost, stolen, damaged or expired passport
5. Contact relatives or friends to request assistance in sending victims money or airline tickets
6. Transfer funds if urgent financial assistance is required and all other options have been exhausted
7. Contact next of kin, with a victim's authorization, if they have had an accident or are detained by police
8. Advise local police in Canada to contact next of kin in case of death
9. Provide assistance to repatriate the remains of a victim's loved one back to Canada
10. Help victims, in case of a death abroad, to identify a funeral home experienced in international funeral arrangements in the region where the death took place as well as a funeral home in Canada
11. Request timely and transparent investigations into suspicious circumstances in the event of an alleged or apparent crime or death (although consular officials cannot interfere in an investigation or legal matter)
12. Contact friends or family on a victim's behalf, with their authorization

13. Provide victims with a list of local lawyers
14. Provide victims with sources of information about local laws and regulations

Additionally, the CCSC states that in cases of large-scale emergency, Canada may:

1. Deploy expert teams to enhance the capacity of Canadian officers in the region affected by an emergency
2. Help Canadians depart to the nearest safe haven on a cost-recovery basis
3. Liaise with families back in Canada or try to put Canadians in touch with their families
4. Provide timely information and updates through their website and social media as well as by phone, SMS and email

Many of the needs discussed in the literature are not covered by the CCSC. This will be analyzed in depth in Part II of this report series. A couple of gaps are particularly noteworthy, and merit mentioning at this stage.

First, medical emergencies are tended to by providing a list of local doctors and hospitals in facilitation of urgent care, but the CCSC is silent on psychological trauma and mental health emergencies. There is no mention of assisting with local documents, nor is there mention of assistance with transfer of medical emergency services to long-term care. Second, the service of flying victims home is limited. The CCSC notes that they *may* help Canadians depart to the nearest safe haven on a cost-recovery basis. This means that consular officials are under no obligation to assist victims with getting home, and it also means that victims will have to pay for any travel so discretionarily arranged. Finally, not a single service referenced in the CCSC imposes an obligation on government to act – the CCSC is split only between services that consular officials *may* or *can* provide, and those that they cannot.

2.1.2. The Canadians Victimized Abroad Fund

As of April 1, 2007, the Canadians Victimized Abroad Fund provides some compensation for Canadians victimized abroad. It is not specific to incidents of terrorism, acts of war, and mass violence. Rather, it is available to Canadian citizens who have been victims of specified serious

violent crimes abroad², and who are in “serious situations of undue hardship where no other source of financial assistance is available” (Financial Assistance for Canadians Victimized Abroad; Program Guidelines on Financial Assistance to Canadians Victimized Abroad 2017).

This Victims Fund may help cover the following expenses (Financial Assistance for Canadians Victimized Abroad):

1. Travel expenses to return to the state where the crime occurred in order to participate at the preliminary hearing and/or the trial or equivalent process
2. Travel expenses for a support person to be with a Canadian victimized abroad, during the immediate aftermath of the crime
3. Expenses for a Canadian victim of crime to return to Canada

Additionally, the Victims Fund may help cover the following expenses up to a maximum of \$10,000 (per family member) (Financial Assistance for Canadians Victimized Abroad; Terrorism Abroad 2021):

1. Hospital and medical expenses due to being victimized
2. Expenses to replace stolen official documents
3. Upon return to Canada, financial assistance for professional counselling
4. Funeral expenses if the crime resulted in the death of the victim (includes funeral home and burial costs, but does not include expenses for flowers, reception, etc.)
5. Out-of-pocket expenses due to being a victim of a violent crime

Requests for financial assistance are generally considered only if an application is submitted within two years after the criminal incident occurred (Program Guidelines on Financial Assistance to Canadians Victimized Abroad 2017).

Victims are not eligible for the fund if they had been residing outside of Canada for more than two years at the time of the criminal victimization, unless they can demonstrate that they (1) are enrolled in educational program, (2) hold a valid temporary valid work permit or (3) have

² The serious violent crimes specified are homicide; sexual assault; aggravated assault; and other serious personal violence offences including against a child (this includes assault causing bodily harm, assault with a weapon, kidnapping, hostage taking, human trafficking, and forced marriage).

maintained a residence in Canada and intend to return to Canada within 6 months of the criminal victimization (Program Guidelines on Financial Assistance to Canadians Victimized Abroad 2017).

It is noteworthy that the Victims Fund is limited in both the items it covers, and its eligibility criteria. For instance, the Victims Fund only applies to criminal victimizations occurring as of April 1, 2007, leaving out all Canadian victims from prior attacks, including the 9/11 attacks.

CASE STUDY: MAUREEN BASNICKI

Maureen Basnicki's late husband, Ken Basnicki, was murdered in the September 11 attacks while on a business trip to New York City. Maureen suffered from PTSD in the years after the attack; it was undiagnosed for many years. She had to stop working; her employment at the time of her husband's death was as a flight attendant. Maureen has struggled for the last almost-20 years to receive reimbursements for the counselling she has paid for since the attack. She has been continually transferred between U.S. and Canadian services, not receiving full care from either state. After the attack, Maureen hired lawyers to represent her in receiving a compensation package from the U.S. government – unlike U.S. citizens, who received pro bono legal work for this purpose, Maureen had to pay out-of-pocket. She additionally had to pay for an expensive written agreement that prevented Canada from taxing that package. In comparison, the U.S. citizens who were victims in the September 11 attacks received tax breaks for 2 years. The U.S. additionally has a specific organization dedicated to overseas victims, while Canada only has the Fund. Maureen is ineligible for this fund since the attack took place before 2007. Maureen has continued to try to advocate for herself, her family, and other victims of violent crime. She remains motivated by her need to support her family, and also by her belief that victims should have their needs met and rights recognized. She notes that the Canadian Victim Bill of Rights is not inclusive of overseas victims.

2.1.3. The Justice for Victims of Terrorism Act

The Justice for Victims of Terrorism Act (JVTA) was passed in 2012 and now allows victims of terrorism to sue listed terrorist entities and state supporters of terrorism for damages in

Canadian courts. Although the JVTAs were not specifically geared towards Canadians victimized abroad, it applies to such victims with no limitations. Victims can seek damages for a terrorist act that was committed anywhere in the world, from January 1, 1985 and onwards. A victim can sue so long as they are a Canadian citizen or a Canadian permanent resident, or if they can demonstrate a real and substantial connection to Canada.

The major limitation of the JVTAs stems from the fact that only *specifically listed* entities and state supporters can be sued under its provisions. As it presently stands, only Iran and Syria are listed as state supporters of terrorism in Canada. This effectively precludes Canadian victims from suing certain major players in Canadian courts. For example, although 9/11 terror victims have sued Saudi Arabia in U.S. courts, this would not be possible in Canada under the JVTAs, at least unless and until Saudi Arabia is added to the list of state supporters of terrorism.

2.2. The United States

When a U.S. citizen is victimized overseas by terrorism, there are multiple U.S. governmental agencies that become involved: Department of State Bureau of Consular Affairs, Federal Bureau of Investigation Victim Services Division (VSD), U.S. Attorney's Office, Department of Justice Office of Justice for Victims of Overseas Terrorism (DOJ/OVT), and Department of Justice Office for Victims of Crime (OVC). Each have particular roles and areas of assistance.

2.2.1. Department of State

The Department of State's Bureau of Consular Affairs assists U.S. citizens who become victims of crime while residing, working, or travelling abroad. They provide immediate emergency response to attacks, support through foreign trials, and assistance with long-term diplomatic matters.

The Bureau explicitly recognizes the physical, emotional and financial injuries that overseas victims may face, in particular due to their unfamiliar surroundings abroad (Help for U.S.

Citizen Victims of Crime). Their website states that their duty personnel can assist with the following (Help for U.S. Citizen Victims of Crime):

1. Replace a lost or stolen passport
2. Contact family, friends, or employers with written permission, in accordance with the Privacy Act of 1974
3. Provide information to facilitate access to appropriate medical care
4. Address emergency needs that arise as a result of the crime
5. Explain financial assistance options, such as assistance available to return to the U.S.
6. Provide information about local points of contact or organizations who discuss relevant host country laws and implementation of those laws
7. Share information about the status of a victim's case in the local criminal justice process when applicable
8. Connect victims to overseas and U.S.-based resources for victims of crime, if available
9. Provide a list of local lawyers who speak English

2.2.2. Federal Bureau of Investigation Victim Services Division (VSD)

The Federal Bureau of Investigation (FBI) assists U.S. victims overseas. They assist with immediate emergency response in the aftermath of an attack, and support through investigation and any domestic or foreign trial, if the FBI opens a criminal investigation (U.S. Victims of Terrorism Abroad Task Force). In the immediate term, VSD assistance includes (1) explaining the process to the family, (2) meeting with victims, (3) coordinating medical evacuations, (4) coordinating autopsies and obtaining death certificates (if necessary), (5) arranging crisis intervention services if appropriate, and (6) facilitating investigative interviews with family members (Specialized Assistance 2008). This immediate-term assistance may last “anywhere from one to four weeks” (Specialized Assistance 2008).

In the medium term, defined as ranging from four to 24 weeks, VSD assistance includes (1) identifying additional federal, state, and local victim resources, (2) providing appropriate intervention with employers and creditors, (3) providing case status updates, and (4) arranging briefings with investigative officials (Specialized Assistance 2008).

In the long term, which may last months or years, VSD assistance includes (1) responding to inquiries from victims and their families, (2) maintaining updated victim contact information, (3) providing updates on case developments, and (4) assisting with travel arrangements to attend trials (Specialized Assistance 2008).

2.2.3. U.S. Attorney's Office

The U.S. Attorney's Office assists victims – of both overseas and domestic crimes – with domestic legal matters. Specifically, when the Department of Justice files charges against an alleged terrorist in U.S. Federal Court, the U.S. Attorney's Office handling the prosecution is also responsible for providing victim services in relation to the prosecution (Office of the United States Attorneys 2016). The Office ensures that victims are notified of, and provided, their rights. The Office generally provides (Office of the United States Attorneys 2016):

1. Information on court proceedings and case status
2. Referrals to counselling, medical and other social services
3. Court accompaniment
4. Special services for child victims, the elderly and handicapped victims
5. Crime victim's compensation claims assistance
6. Assistance with completing victim impact statements
7. Support for victims throughout court proceedings
8. Assistance with restitution issues

2.2.4. Department of Justice Office of Justice for Victims of Overseas Terrorism

The Department of Justice Office of Justice for Victims of Overseas Terrorism (DOJ/OVT) provides victims of overseas terrorism with assistance in navigating foreign criminal justice systems and long-term justice issues (U.S. Victims of Terrorism Abroad Task Force).

The DOJ/OVT is involved in advocating for victims to obtain information and participate in foreign criminal proceedings (Our Activities 2018). The DOJ/OVT also provides financial support to assist these victims to participate in foreign criminal proceedings, at least in cases where the foreign jurisdiction permits U.S. victims to attend. This financial assistance is

provided by the Criminal Justice Participation Assistance Fund (CJPAF). For some attacks abroad, the DOJ/OVT may utilize a specific, password-protected website, to facilitate participation of victims and the provision of information (Our Activities 2018). Finally, the DOJ/OVT contains a Victims of Terrorism Abroad (VTA) Task Force, which coordinates and enhances the U.S. government response to overseas terrorism (Our Activities 2018). The DOJ/OVT is recognized as a “good practice” internationally (INVICTM 2018).

CASE STUDY: SARRI SINGER

Sarri Singer is a U.S. citizen who was a victim of terror overseas. Her most significant needs were long-term medical needs. She underwent surgery, and years of physical therapy, following the attack. Following her attack, she founded a nonprofit organization called *Strength to Strength*, which brings victims of terrorism together globally in order to share their experiences and promote long-term healing. Generally, Sarri reflects that ITVERP’s structure is excellent, and that they have even gone above and beyond what their policies state. Sarri’s only negative comments about ITVERP were that it was sometimes tedious to deal with the bureaucracy; that it sometimes took months to receive reimbursement; and that since they do not engage in much outreach, many victims do not know about the program. Sarri described feeling powerless in legal matters and frustrated by how infrequently terrorists are brought to justice or held accountable. The need for her to witness legal proceedings and feel that justice is being done is a very important element of her coping process. She wants specific information about the terrorists in her case, and she struggles with many diplomatic barriers in this regard. Sarri expressed frustration that the various government offices are not properly set up to allow for adequate long-term support of victims, which is why her organization has stepped in to close this gap for victims of terror.

2.2.5. Department of Justice Office for Victims of Crime

The Department of Justice Office for Victims of Crime (OVC) administers a large expense reimbursement program for victims of terrorism and mass violence. It is called the International Terrorism Victim Expense Reimbursement Fund (ITVERP).

The ITVERP provides “financial reimbursement for qualifying expenses to qualified U.S. citizens and U.S. government employees who suffered direct physical or emotional injury from an act of international terrorism while outside the United States” (International Terrorism Victim Expense Reimbursement Program (ITVERP): Overview). The National Security Division of the Department of Justice is responsible for determining whether an act is considered a terrorist incident for the purpose of the ITVERP (International Terrorism Victim Expense Reimbursement Program (ITVERP): Who Is Eligible?).

Essentially, there are three main requirements. First, the terrorist incident must have occurred abroad. Second, the victim must have U.S. citizenship or employment with the U.S. government. Third, the expenses claimed must relate directly to the terrorist incident (International Terrorism Victim Expense Reimbursement Program (ITVERP): Overview). If a victim is deceased, underage, incompetent or incapacitated, a legal guardian or family member (meaning, a spouse, child, parent, sibling, or other person at the OVC director’s discretion) may claim reimbursement on the victim’s behalf from the ITVERP (International Terrorism Victim Expense Reimbursement Program (ITVERP): Who Is Eligible?).

The application window for the ITVERP is generally three years from the date the incident occurred. However, exceptions may be granted if there is “good cause” to do so (International Terrorism Victim Expense Reimbursement Program (ITVERP): How To Apply).

The ITVERP only covers certain expenses, and up to certain monetary limits (International Terrorism Victim Expense Reimbursement Program (ITVERP): What Is Covered?):

1. Medical expenses (medical care, replacement of medical devices, physiotherapy, occupational therapy, counseling, upgrading of job skills or training for a different career, and workplace, vehicle and home modifications) – up to \$50,000
2. Mental health counselling costs – up to \$5,000 for up to 12 months
3. Property loss, repair or replacement – up to \$10,000
4. Funeral and burial costs – up to \$25,000
5. Miscellaneous costs (including temporary lodging up to 30 days, local transportation, telephone costs, emergency travel for two family members to the foreign jurisdiction) – up to \$15,000

CASE STUDY: Helen Wilson

Helen Wilson is a U.S. citizen who was a victim of the terrorist attacks in France on November 13, 2015. She was living in France at the time. Since she was a resident of France, and had been for a long time, she mostly dealt with French support systems. She received full compensation and support from the French government. Helen felt highly supported by the French systems and had many different points of liaison. Her experience with the U.S. services were less noteworthy. Five FBI officers came to visit her in the hospital every day for a week to interrogate her. The U.S. Department of State offered to fly Helen home if she wanted to get out of France. This was irrelevant for her individual case, however, since she was a French resident and wanted to remain in France. She explained that she called them a couple of years later about a loan that they had offered, to repay her costs, but at that point they refused; they told her that she “seemed to be doing fine” because she had already received money from the French government. Helen generally felt ignored by the U.S. government and embraced by the French.

2.3. The United Kingdom

In the United Kingdom, it is the Foreign Office that is largely responsible for dealing with U.K. nationals that are victimized abroad in acts of terror and mass violence. Specifically, the Foreign, Commonwealth & Development Office (FCDO) determines which services may be provided, and the Victims of Overseas Terrorism Compensation Scheme provides financial compensation in certain circumstances.

2.3.1. Foreign, Commonwealth & Development Office

When U.K. nationals are victimized overseas in a “crisis situation”, the Foreign, Commonwealth & Development Office (FCDO) has specified a number of services they may provide, on a case-by-case basis (Support for British nationals abroad 2020). They specify though that “the host government has responsibility for the safety of its citizens and overseas visitors or residents during a crisis situation”, and that the U.K. government “will not send

[their] staff into a situation where ... their safety could be seriously at risk” (Support for British nationals abroad 2020).

Specifically, the FCDO states that they may (Support for British nationals abroad 2020):

1. Work with local authorities – including hospitals and police – to establish the facts of the incident and if British nationals have been affected
2. Work with the local authorities to provide clear information about their response to incidents and signpost victims to relevant sources of assistance
3. In some circumstances, work with airlines, airports and travel companies and highlight their advice and services
4. Provide information via local radio, community notice boards, warden networks, or a desk at the airport because cell phones and internet can go down during a crisis
5. Deploy staff to support victims and reinforce embassies if required; these teams can include specialists from the British Red Cross and the U.K. Police Disaster Victim Identification teams
6. Open up a dedicated hotline, SMS and online web form facilities for people to contact the FCDO about British nationals that require assistance in a crisis
7. Support the families of any British nationals killed or seriously injured in an incident, for example in providing information to support the making of arrangements for repatriation or medical evacuations to the U.K.
8. Provide family members of victims with local information or support coming out to the scene, exceptionally this may include meeting at the airport and arranging and attending meetings with local authorities
9. In exceptional circumstances, organize an assisted departure where the FCDO assists in accessing transport or providing additional transport to supplement existing options, to enable leaving a country or location
10. Charge a reasonable fee for seats on charter flights, to be paid at a later date
11. In exceptional circumstances, use military aircraft or vessels to evacuate British nationals, when all other transport options have been exhausted or do not exist
12. In the event of an evacuation, provide transport to a place of safety; this is usually to a safe third country and not to the U.K.

13. Work closely with other countries to make best use of charter flights and military transport where appropriate

Further, in cases that are terrorist attacks, there are Exceptional Assistance Measures (EAMs) that may additionally be used to assist (Support for British nationals abroad 2020). The details and availability of this assistance varies on a case-by-case basis and is only available as a last resort (Support for British nationals abroad 2020). Generally, EAMs allows the FCDO to go above and beyond the help that is normally provided. The additional help might include medical evacuation; repatriation; and payment of immediate medical expenses. EAMs only cover incidents that have been deemed to be acts of terrorism by the U.K. government (Exceptional Assistance Measures for British nationals affected by terrorist incidents abroad 2016).

The FCDO discusses the importance of transitioning to long-term care once a victim returns to the U.K. The FCDO works with support organizations at U.K. airports in order to provide returning victims with “as much relevant information as possible” on long-term emotional and practical support resources (Support for British nationals abroad 2020). The FCDO also states that it works with other government departments and external organizations in this effort (Support for British nationals abroad 2020).

2.3.2. The Victims of Overseas Terrorism Compensation Scheme

The Victims of Overseas Terrorism Compensation Scheme permits certain individuals to claim compensation if they are victimized abroad by terrorism (Compensation for victims of terrorist attacks abroad). Eligibility is limited: claimants must be a British, E.U., E.E.A. or Swiss citizen, or a member of the U.K. armed forces; and they must have lived in the U.K. for three years immediately before the terrorist attack occurred (Compensation for victims of terrorist attacks abroad). The Scheme is only available for terrorist attacks since November 27, 2012 (Compensation for victims of terrorist attacks abroad).

The Scheme’s application window is two years unless in the case of “exceptional circumstances” or if the claimant was under 18 at the time, in which case the window can be

extended (Victims of Overseas Terrorism Compensation Scheme 2014). The Scheme is also clear that its compensation should be seen as a last resort and can only be awarded if social security benefits, insurance payments, and damages or compensation are not available (Victims of Overseas Terrorism Compensation Scheme 2014).

The Scheme includes three payment types (Victims of Overseas Terrorism Compensation Scheme 2014):

1. Injury payments – if the injury is described in the tariff of injuries; up to three injuries
2. Loss of earnings payment – if totally unable to undertake paid work or in very limited capacity (a few hours per week), with evidence of previous payment, good work history, and loss of earnings lasting longer than 28 weeks
3. Special expenses – can include property or equipment damage relied on for physical aid, costs arising from treatment under state health service, special equipment, home modifications, and cost of care

Each of the three sections of the Scheme have specific technical exclusions, and monetary values are not listed for any category due to the highly adaptable nature of the Scheme and the variation among different claimants. The only monetary value assignment is for funeral costs, for which the Scheme offers a basic funeral payment of £2,500, with a further payment of up to £2,500 where the particular circumstances mean that the flat rate will not cover the funeral costs (Victims of Overseas Terrorism Compensation Scheme 2014). The total amount of a funeral payment cannot exceed £5,000 (Victims of Overseas Terrorism Compensation Scheme 2014). Medical injury is included, and the Scheme provides for mental health as part of the injury payments. It explains that they may need additional medical or other evidence for the claiming of a mental illness but that they will meet the cost of obtaining it including cost of travelling to and from appointments (Victims of Overseas Terrorism Compensation Scheme 2014). Most notable is the Scheme's loss of earnings payment, which is unique from most other compensation schemes for victims of terror.

CASE STUDY: U.K. Cross-Border Victim of Terrorism

The U.K. victim interviewed requested to remain anonymous. They were involved in an overseas terror attack. The victim was flown home less than a day after the attack, with assistance from the British government. Despite this, the victim felt that efforts were slow-moving, exacerbated by generally feeling “out of the loop.” Although consular officials came to the victim’s accommodation to speak with the victim, there were several hours between the attack and that visit, in which time victim did not know what was happening. They were further traumatized by media at their accommodation, which was supposed to be secured but was not. There was little-to-no follow-up once home. Only years after the attack was the victim provided with therapy. The victim described their assigned therapist as “horrendous”, and “[ill-equipped to treating] trauma with regards to terrorism”. The victim has not yet received any compensation from the U.K. government. As a result, all their payments are out-of-pocket. The victim views the general lack of support as related to a lack of compassion and a strict adherence to bureaucracy. It appeared to the victim that government officials only cared if someone was physically injured or killed. They felt mistrusted, as if they had to justify their victimhood. They articulated frustration caused by a lack of information, listening, and care.

2.4. Australia

In Australia, the services and supports offered to overseas victims of terrorism are contained in the Consular Services Charter and the Australian Victim of Terrorism Overseas Payment. The Consular Services Charter outlines which services may be provided to Australian victims overseas, and the Australian Victim of Terrorism Overseas Payment addresses compensation. Additional services may be provided if the Australian government launches a crisis response.

2.4.1. Consular Services Charter and Crisis Response

Australia adheres to its Consular Services Charter in determination of services offered to overseas victims. These victims include Australian citizens and Canadian citizens in locations specified in the Australia-Canada Consular Sharing Agreement. The Charter states that Australian consular officials may do the following:

1. Provide emergency consular support
2. Provide a list of local hospitals with doctors who speak English
3. Contact relatives or friends, with victims' consent
4. Help victims access local support and counselling services, where available
5. Transfer victims to Australian counselling service

For instances of terrorism, where large numbers of Australians have been killed or injured or are in immediate danger, the Australian government may launch a crisis response. In such a situation, a whole-of-government approach can be taken, and various departments can undertake their roles in line with the *Australian Government Response Plan for Overseas Mass Casualty Incidents* and/or the *Australian Government Plan for the Reception of Australian Citizens and Approved Foreign Nationals Evacuated from Overseas*, as appropriate.

The additional services that may come into play in a crisis response include the following:

1. Deploy expert teams to support affected Australians
2. Liaise with the families of any Australians who are killed or injured
3. Work with local authorities to support affected Australians
4. Support Australians trying to leave the area and put them in contact with their families
5. Provide crisis updates
6. Advise of options to leave a dangerous area
7. Arrange an evacuation, in exceptional circumstances

CASE STUDY: BALI BOMBINGS

At approximately 11pm on October 12, 2002, three bombs went off in Kuta, Bali. The explosions killed 202 people, including 88 Australians, and injured hundreds more. The Australian Defence Force mobilized immediately. 17 hours after the bombings, the Royal Australian Air Force began evacuating injured Australians. The Australian Federal Police organized a team to travel to Bali to assist local law enforcement, also within hours of the attack. Australian assistance was instrumental in identifying victims and returning them to their families. Australian investigative support was also instrumental in leading to the capture

of the perpetrators. It was following these 2002 Bali bombings that the Australian



government developed the *Overseas Mass Casualty Plan*, so that the Australian government would have clear direction in responding to similar events in the future.

Photo: Members of AFP outside the ruins of the Sari Club. Source: National Museum Australia.

2.4.2. Australian Victim of Terrorism Overseas Payment

The Australian Victim of Terrorism Overseas Payment is a one-time payment for victims or close relatives of victims of terrorist acts (as designated by the Prime Minister) that were Australian residents on the day the declared overseas terrorist act occurred and living permanently in Australia (Australian Victim of Terrorism Overseas Payment). Claimants must apply within two years of the Prime Minister's declaration of the terrorist act, and for bereaved family members of a victim who has died, the window is one year within the primary victim's death. Victims may receive up to \$75,000, depending on their circumstances and on whether they are considered a primary or secondary victim. Victims claim payouts are determined by a number of factors including the impact of injury on the victim's life, their responsibility in taking reasonable steps to avoid such injury, and whether they have received financial assistance from a foreign country (Australian Victim of Terrorism Overseas Payment). The exact rubrics for determining funds provided are not public.

2.5. New Zealand

The Ministry of Foreign Affairs and Trade (MFAT) has primary responsibility for responding to the needs of New Zealanders victimized abroad. The MFAT's Safe Travel website outlines all the services offered to overseas victims in a variety of circumstances, including crime; death of a loved one; financial difficulties; illness and injury; missing persons; and lost, stolen or

damaged passport. There is no specific category for victims of terrorism, but many of the above might apply. Pursuant to these above categories, New Zealand officials may assist with:

1. Advice on reporting crimes to the local police
2. Locating appropriate medical care, including providing a list of English-speaking medical professionals
3. Locating appropriate counselling options
4. Providing a list of English-speaking lawyers
5. Trying to locate missing persons overseas
6. Assist with replacing a lost or stolen passport, or issuing an Emergency Travel Document for New Zealanders returning to their country of residence within the next three days
7. Help contact family members
8. Help contact insurance providers
9. Assist with the facilitation of medical evacuation, at victim's own cost (or that of their insurance provider)
10. Help family or friends to transfer a victim money, if the victim is having trouble contacting them directly
11. Transferring funds through the Ministry or via an embassy, if no other option, for a fee
12. Discussing other ways of resolving financial issues

There is a framework in which to offer additional services in a crisis situation or a situation of terrorism/mass violence through New Zealand Victim Support. This independent organization offers support with the help of front-line volunteers that directly support victims at home, in police stations, at the scene, in court and in the community – within New Zealand. As such, only some of their services apply to overseas victims (New Zealand Victim Support: How We Can Help). Their support includes:

1. Emotional first aid and practical support at the time of crisis
2. Financial grants to reimburse costs after some serious crimes, especially homicide, death by a criminal act, and sexual violence
3. Referral to counselling and other services, and payment of counselling costs in some cases for serious crime (see financial grants above)

4. Help dealing with the criminal justice system, for example, attending court, restorative justice, parole board, preparing victim impact statements, and help organizing travel and accommodation if required
5. Help dealing with grief, loss, trauma and shock
6. Follow up on well-being / safety after crisis and further emotional and practical support if required
7. Specialist support following a homicide
8. Help and support through the coronial process
9. Advocacy with other organizations

Practical support at the time of crisis applies to victims of crime within New Zealand, but that service cannot extend to overseas victims. The financial grants offered through this organization are under the Victim Financial Assistance Scheme (VAS); this scheme only applies to victims of serious crimes that take place in New Zealand, however, so this service again does not apply to overseas victims (New Zealand Victim Support: Financial Assistance). The rest of the services offered by New Zealand Victim Support may extend to victims of mass violence and terror, including those who are victimized abroad. This organization has many useful pamphlets and can link victims to services for counselling, support and other needs upon their return to New Zealand (New Zealand Victim Support: Useful Information). They also connect victims with various other organizations that can help. It is noteworthy to mention, however, that even these services that include crimes abroad cannot be accessed by New Zealanders who are physically not in New Zealand.

Similarly, the MFAT notes that the Accident Compensation Corporation (ACC) –the mandatory insurer for all New Zealanders– may provide coverage to New Zealanders for injuries sustained while abroad. However, this coverage is equivocal, and the MFAT further clarifies that ACC assistance is not available to cover any treatment received overseas.

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