

**Proceedings of the Conference-debate on
"TERRORISM, THE LAW AND VICTIMS' RIGHTS"
1st march 2006
www.eureste.org**

The psychosocial impact of legal proceedings on the victims

**By
Thibaut Lorent**

Psychologist
Belgian Red Cross

Introduction

Before getting to the heart of the subject, I would like to say that I am standing in for Nathalie Toledo, an excellent colleague of mine who is an "Assistante de Justice" (Justice Assistant) for Namur's "Parquet" (Public Prosecutor's Office). I am sorry that she is not here tonight, which does not mean to say that I am not very pleased and honoured to stand in for her today, but as I had the opportunity to hear her talk on this subject during the Study Days in October, I am sure you would have been touched, as we all were back then, by her testimony and by the wealth of her experience.

I would like to thank her because I shall base my reflection on her speech several times. By the way, the text of her speech is available in the proceedings of the study days that Delphine Pennewaert and Frédéric Casier told you about earlier on. Finally, I would also like to thank them for having invited me to take part in this conference-debate.

My presentation will be divided into two parts. The first is a vital preliminary. I shall try to briefly explain what victims experience before the question of the legal procedure arises. The second part will deal specifically with the issue of concern to us today: the psychosocial impact of judicial proceedings on the victims.

Part 1 : Preamble

This introduction will be based on two fundamental points which I hope will raise many people's awareness of the psychosocial consequences of the judicial procedure. The first point will deal with the way the victims experience this procedure, and the second will go into their needs!

Indeed, the victims who turn up in court have experienced a nasty impact on their lives: the traumatic event itself. And what an impact! The bomb, the explosion, the towers collapsing, the underground train derailing, the bitter smell of smoke and blood, the screams, the silence and the tearing apart.

To talk about the psychological and social impact of the judicial procedure without mentioning the effects of what brings the victims to become **subjects** in this same procedure would be meaningless.

**Proceedings of the Conference-debate on
"TERRORISM, THE LAW AND VICTIMS' RIGHTS"
1st march 2006
www.eureste.org**

Talking about meaning, I am not using the term "impact" by chance as it has meaning for our discussion. When we consult the dictionary, we see that "impact" is a ballistics term! It comes from the Latin "impactus", meaning "to hit". The term is used when two or more objects collide. The point of impact is also the point where the trajectory of a projectile hits the target.

Does this mean that the victim "collides" with the judicial procedure? We shall talk about this later on.

But let us go back to the consequences of the initial impact :

The first, most obvious, consequences are the physical wounds, when the victim's flesh has been damaged. As for the after-effects of terrorists attacks, they are numerous: multiple physical traumas, burns, damaged hearing following the blast of an explosion, etc.

The second type of consequence is less obvious and concerns the psychological and social wounds. They are less obvious because the victim cannot wear a sling or use a prosthesis or crutches, which are there for anyone to see... These wounds are invisible and yet these are gaping wounds! The victims carry them inside them, in their hearts and in their bodies, and the symptoms, as Dr. Barois, a professor specialised in psychotraumatology puts it, "are only makeshift bandages".

A. The victims' experience

Let us go further and look into the way the victims experience the event and its aftermath.

Don't worry: I won't talk about symptoms or syndromes...

In short, and bearing in mind that each individual experiences the disaster in a unique way, one element is always present... something essential since it is fundamentally human: the victim always experiences the event as a tearing apart!

In one brief moment, the terrorist attack excludes the person from the world of the living... There is a break in continuity, in the physical and psychological survival systems, his/her beliefs in a fair and safe world, in the ability of the State to protect us...

We could also say a break with everything that protected the victims, from their skin to their house or the means of transport in which they felt safe... There is also a break in the structural envelope made up by the organisations and the institutions whose mission it is to protect them and which have failed... And even, above all, the envelopes of these illusions that protect us all, that keep us sane and give meaning to our lives, are torn apart. In short, the victims' contacts with the world are shattered...

**Proceedings of the Conference-debate on
"TERRORISM, THE LAW AND VICTIMS' RIGHTS"
1st march 2006
www.eureste.org**

This break means meeting death! While feeling the fear of being abandoned and dereliction. The first emotions to be experienced are fear, horror, anxiety... Then come anger, sadness and despair in the face of the many losses and the griefs!

This is, perhaps too synthetically, what the victim experiences.

B. The victims' needs

Very quickly, when victims are confronted with all of these things, they start asking very simple questions: Who? Why? How? Because they need to bring some meaning to what is happening to them, they need to control, if only in their minds, the upheaval they are going through! To find a way to beat the powerlessness they are going through.

Who? Why? How?

These very questions are the same questions posed by society and by the judicial system that represents society! We shall see that the victims' expectations and the function of the judicial institution are not necessarily one and the same.

The needs of the victims are many, and they change over time and differ from person to person!

I am not going to go now through an exhaustive list of them but there are also invariants in this case.

The first need of the victim, since s/he has been brutally excluded from the community of humans, is to be reintegrated into it! Since these links with the world (in the sense of the victim's internal and external world: the others, his/her membership groups etc.) have been brutally severed, these same links need to be re-established, need to be sutured as one would sew up a physical wound to ensure good scarring.

The specific needs linked to this "meta-need" are numerous, and all books on victimology or psychotraumatology talk about them in some way. Here are a few: welcoming, listening, recognizing, information, truth, understanding, and of course, justice!

But these words (and some of them are missing) are trees that hide forests that are sometimes very deep... What does welcoming mean, how should one listen to a person and recognise what s/he says etc...? It is not so easy!

Let's talk about the need for justice.

This need is particularly important for all victims of intentional acts of violence, in particular for the victims of terrorist acts. Indeed, the individual is not the target of the terrorist but his/her community or society as a whole. A society that reveals itself to be fallible and which, therefore, owes the victim all the more.

**Proceedings of the Conference-debate on
"TERRORISM, THE LAW AND VICTIMS' RIGHTS"
1st march 2006
www.eureste.org**

So the victim turns to the State and its institutions for his/her rights to be re-established, i.e. the rights of all human beings.

The victim invoke the law. Since laws have been violated, they should be restored in full in terms of **prosecution** and **sanction**.

Yet, as we saw earlier on, the steps taken by the individual victim and the function of the judicial system do not necessarily match. Yet the law, and criminal law in particular, have a function of social regulation. But this function is submitted to rules that protect the accused and guarantee a fair trial...

A nice quote by J.M Domenech illustrates this in a slightly ironic way: *"To be a victim is to see barbarity break into one's existence and at the same time to be forced to adhere to civilised responses."*

And we all know from the presentations of the previous speakers that these responses, as civilised as they may be, can be implacably complex and cruelly slow...

This concludes my preamble, which simply aimed to give you an idea of the state of the victim who is about to become an actor in his/her judicial destiny by going to court seeking justice and compensation.

Part 2 : The psychosocial impact of the judicial procedure

This is now doubt when the impact of the judicial procedure can hit the victims, who are fragile to some extent. The many needs of the victims and, as a consequence, the many expectations they have, collide with a system that more often than not they did not know until then... This is what Nathalie Toledo underlined in her presentation:

« The first thing that springs to mind: I do not know of a single victim for whom the legal proceedings were not a source of violence.»

And true enough, the road the victim is about to go down often looks like the road to hell!

From the police's questions to the endless waiting until the trial, the victim will be faced with two things.

First of all, the victim will be confronted with what s/he would prefer to forget and wish s/he had never gone through.

This means reliving the event during the legal proceedings. Then, there is the reality of the judicial system, which is not what the victim thought justice was like, it is nothing like s/he had imagined, not

**Proceedings of the Conference-debate on
"TERRORISM, THE LAW AND VICTIMS' RIGHTS"
1st march 2006
www.eureste.org**

even vaguely, such as a cardinal virtue or a slightly fascinating and scary noble institution, but rather an organisation which, like any other, is ruled by laws, codes and procedures.

« *[The victim may] realize that one's word and suffering will not be enough for Justice to be done [...and] that if the facts are only too real for the victim, they might never become a judicial reality [...]*" (N. Toledo).

The victim will become aware of the fact that justice takes time and has the duty to be fair. That if s/he has rights, so does the accused. Finally, that in spite of the clear progress achieved in terms of the rights of the victims, s/he is not at the heart of the judicial procedure, unlike the accused, for whom this procedure was originally created.

Here again, the victim experiences violence, a feeling of helplessness and of dependence on others. More grieving processes to go through!

After the period of rupture comes the time for conflict and the feelings that go with it: anger and discouragement!

Indeed, the procedure means going down a fixed track, "There's no end to it!". The victim is put on the track but the locomotive is in trouble...

There is therefore a real risk for incomprehension to set in with a feeling of frustration which sometimes leads victims to enter into an endless spiral of claims. Also, the victims sometimes behave strangely... Their suffering and anger are uncomfortable to face and difficult to deal with!

How many times have we seen protesting victims disgusted by justice... And they tell us that "it is like banging your head against a wall...!" Impact, and new psychosocial upheavals that wear you out...

But at the end of this dark tunnel, what they expect is recognition or at least partial recognition!

Which is no doubt very important for the victims of terrorist acts since the supporting structure has been hit, i.e. society and all of its sections as a whole, i.e. this supporting structure that must sew wounds up and repair!

This is why there is much talk about secondary victimisation and the need to prevent it.

And it is precisely because it is very difficult for the victim to move within this structure and to face the system that several reforms have been introduced (following among others an unprecedented event in Belgium) that make the system more welcoming today!

The procedure has given back to the victim a more acceptable place. S/he is again in a position to act, which is all to the good. But behind the texts that organise the procedure, there are men and women. The police officer who takes the statement, the investigating judge, the trial judge, the court officials...

**Proceedings of the Conference-debate on
"TERRORISM, THE LAW AND VICTIMS' RIGHTS"
1st march 2006
www.eureste.org**

These people embody the supporting structure and the links we were talking about earlier. They are the surgeons who suture, each at their own level, the victims' wounds... The main part of the treatment (again in the words of C. Barois) is basically psychosocial treatment!

This means that aiding victims is team work and does not only involve mental health professionals.

The medical-administrative, social and legal statuses of the victims will be considered by health workers to be part of the victim's psychosocial support!

But meeting the various actors at these different levels, even more than the question of the statuses, will have very strong psychological effects on the victims in terms of trust, recognition and the feeling of being recognised as a person and not as a case.

As I was saying at the beginning of the conference, this is not about giving more rights but practising law differently, practising it better.

To conclude, it is important for me to say that many victims benefit from the good work of justice and of its procedures which participates in reducing their suffering and their trauma by reintroducing society's participation as represented by the actors of the legal system.

The victims of terrorism, more than other victims as we have seen, call upon the community. It is up to the community and therefore up to each and everyone of us to welcome them with warmth and understanding. This is how the links with society, which have been severed, can be symbolically repaired so that the impact is not longer the collision between two objects but the meeting of two subjects!