

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

**By
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Ladies and Gentlemen,

In October 2005, the Belgian Red Cross's Emergency Psychosocial Intervention Service organised study days on the promotion of resources for the victims of terrorist acts and their families. European theoreticians and practitioners in the field of victimology came together to think about the questions brought about by terrorism today.

This event was part of the pilot project launched by the European Commission in 2004 that aims to devise a common European response in order to offer the victims of terrorism and their families psychosocial support, the means to fight against terror and easier access to justice.

Following up this same project, the Belgian Red Cross's international humanitarian law department is organising in turn this evening a conference-debate on the issue of **"Terrorism, the law and victims' rights"**.

Since the Belgian Red Cross's mandate includes the diffusion and implementation of International Humanitarian Law (IHL), our organisation has a strong interest in the existing legal framework which governs terrorist acts.

To recall, International Humanitarian Law is a set of rules that aim to limit the negative effects of armed conflicts on humanitarian grounds. It protects the people who are not or who are no longer involved in combat and restricts the means and methods of war.

Since terrorist acts take place not only in times of peace but also during armed conflicts and since they affect civilians, the Belgian Red Cross, with its mandate of protecting victims, has the duty to regularly recall the rules of IHL applicable to such acts. The principles that stem from these rules can be summarised as follows:

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- First of all, a terrorist act is a war crime since it generally indiscriminately targets civilians in order to wreak terror among them, which is expressly forbidden by the 1949 Geneva Conventions' First (Art. 51) and Second (Art. 13) Additional Protocols, both introduced in 1977.
- Also, people suspected of having committed such war crimes must be searched for, prosecuted and tried before national courts (Art. 49/50/129/146 of the Geneva Conventions).
- Finally, the accused must be tried before an impartial court and in accordance with the rights of the defence. They must, moreover, be protected against any attack affecting their dignity and their physical integrity in accordance with the Fourth Geneva Convention, which expressly prohibits "all measures of intimidation or of terrorism" against detained persons (Fourth Geneva Convention, Art. 33). A fact sheet produced by the Belgian Red Cross outlines the legislation. Several copies are at your disposal.

Protection against terrorist acts as provided for by IHL in cases of armed conflict and by the conventions on human rights in times of peace cannot stop there. It must also be carried out in the more specific framework of national and international legal proceedings, particularly in view of the fact that, since 2001, the legal arsenal in terms of the fight against terrorism has been reinforced at international level (for instance within the EU, with its Framework-Decision of 13th June 2002 on the fight against terrorism) and at national level (as in Belgium with the Law of 27th December 2005 on the improvement of the modes of investigation in the fight against terrorism and serious and organised crime).

The study days of October 2005 briefly touched upon the geopolitical context of terrorist acts and the place of the victim in court proceedings. Several lessons were drawn from this experience, and two of them in particular can be useful guidelines for this evening's reflections:

First of all, combating terrorism requires above all an understanding of this act and therefore a definition for it and the identification of its origins.

While terrorism can be characterized *a priori* by several criteria (the use or threat of violence, an attack against civilians, the aim of destabilising state institutions and spreading terror), it is however difficult to determine this phenomenon's boundaries. No international convention has to date a universal definition of terrorism as such because of disagreements, i.a. at political level, between states, in spite of the UN Secretary-General's appeal in 2005.

Secondly, victims need their experience to be recognised, they need better support with regard to justice and to have what they want to say listened to by legal professionals (the investigating judge, for instance).

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- At international level, conventions generally provide for a right to reparation and the right to an effective remedy for the victims of grave violations of human rights, in which terrorist acts are included.
- However, few international instruments seem to provide for measures regarding the status of the victim in terms of protection and follow-up, particularly in the context of a trial in an international criminal court, with the exception of the International Criminal Court as we shall soon see.
- Yet this observation should not amplify the phenomenon of "victimisation": the victims of terrorist acts should not take precedence over others. Furthermore, it is also vital that the rights of the victim should be balanced with the rights of the accused, who must also be treated properly during their detention.

Today, it is to you law practitioners, members of academia, representatives of the Federal Police and of the public authorities that we are turning in the hope that you will share with us your thoughts and experiences to analyse in greater detail the many practical questions aroused by terrorism at the judicial level.

Two issues will be discussed :

- The legal context of the fight against terrorism in Belgium and at international level:
 - Which rules govern terrorism ?
 - What are the problems generated by their implementation?
 - Is cooperation between courts and between police forces efficient?
- The place of the victims' of terrorist acts in the context of Belgian, European and international criminal procedures
 - What does justice have to offer for the victims of terrorist acts?
 - What place does justice give them at the moment?

This conference is only the beginning of a European-wide reflection process on the role of the judicial system in the face of terrorist acts and, in more general terms, of the most serious crimes. While the judicial system is not supposed to solve the victims' problems, it is however above all a setting in which the victims move and act to make their voices heard. To this end, the institutional framework must enable the victims to find their bearings and have confidence in the system.

This evening's conference will be chaired by Mister Christian De Valkeneer, Procureur du Roi (Public Prosecutor) in Charleroi and Professor of Law at the Université catholique de Louvain.

I would like to thank him and the speakers for their presence and their precious contributions to this event in spite of their very busy schedules.

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I shall now give the floor to Mr. De Valkeneer, who will make a presentation on the conference's first issue and introduce the speakers.

I thank you for your attention and hope the discussion will be fruitful.