

REPUBLIC OF KENYA



OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

VICTIM PROTECTION BOARD



ANNUAL REPORT 2020

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LIST OF ACRONYMS AND ABBREVIATIONS

AG	Attorney General
NACCSC	National Anti- Corruption Campaign Steering Committee
OAG\$DOJ	Office of the Attorney General and Department of Justice
SCAC	State Corporation Advisory Committee
VPA	Victim Protection Act
VPB	Victim Protection Board
VRC	Victim Rights Charter

ACKNOWLEDGEMENT

The conceptualization and development of this Annual report has been made possible through a consultative process involving key stakeholders drawn from the various State and Non-State Actors in the criminal justice system who are members of the Victim Protection Board and Technical Committee of the Board.

The Annual Report was undertaken under the leadership of the Honourable Attorney-General and Solicitor General, together with the Victim Protection Board would like to express their sincere appreciation to the Board Members, the Technical Committee Members and secretariat whose precious efforts led to the fruition of this Annual Report.

Further, the OAG & DOJ and the VPB remains grateful to all organizations who have in profound and diverse ways contributed to this Annual Report in addition to the development of the Victim Rights Charter, The Victim Protection Act, General Regulations and the Rules and Regulations governing the Board of Trustees.

FORWARD BY THE SOLICITOR GENERAL

The Victim Protection Act, 2014 establishes the Victim Protection Board which is mandated to among others advise the Cabinet Secretary responsible for matters relating to Justice (Attorney General) on inter Agency activities aimed at protecting victims of crime. The Victim Protection Act provides for a suitable platform to facilitate the protection of the victim of crimes, who have for the longest time been overlooked by the criminal justice system.

I am delighted to acknowledge the strides made by the Victim Protection Board (VPB) during the period 2020-2021 towards the implementation of the Victim Protection Act and Article 50(9) of the Constitution of Kenya.

The operationalization of the Act is on course; it will see Kenya take a new route in promoting and protecting the rights of victims in line with international standards. It is for this reason that stakeholders have been working tirelessly to help the Board set up the legal framework for the proper protection of the victims of crime.

During the year 2020/2021, the Board worked tirelessly to finalize the Regulations that support the implementation of the Act and this would bring the Board a step closer towards achieving a remarkable milestone of providing the victims with an environment in which they do not feel helpless in a criminal justice system that is supposed benefit them.

Despite the numerous challenges faced by the Victim Protection Board especially the Covid-19 pandemic, there has been a will and determination for progress by the Board. For this reason, I thank the team for always looking beyond the challenges and offering their unwavering support and expertise. The achievements of the Board have so far been remarkable. I urge the Board and the various stakeholders to work in the same spirit to ensure that the rights of the victims of crimes are fully realised. I am confident that the Board will help achieve the desired status of a victim in the criminal justice system.

Kennedy Ogeto

SOLICITOR GENERAL AND

Chair, VICTIM PROTECTION BOARD

REMARKS BY THE SECRETARY, VICTIM PROTECTION BOARD

I am glad to present the report on the performance of the Victim Protection Board during the Financial Year 2020/2021

The trustees are expected to work with the Board to operationalize the system for compensation of the victims, The Board has also finalized the Victim Protection (General) Regulations, 2020, Victim Protection Trust Fund Regulations, 2020 and amendments to the Victim Protection Act. The draft Regulations and the Amendment Bill have been forwarded to the Legislative Drafting Department, a Department of the OAG & Department of Justice.

The Board implemented its work plan in the financial year 2020/21. The work plan provided that, the Board was to review the draft Strategic Plan 2019-2023. The strategic plan is timed to coincide with the 3rd Medium Term Plan (MTP III) of the Kenya Vision 2030. The key activities and deliverables of the Board have also been included in the OAG/DOJ strategic plan 2019-2023.

I take this opportunity to thank the Acting CEO, the Technical Committee and the Secretariat for their support, commitment and zeal during the year under review.

Thank you,

Alice Ondieki (Mrs.)

SECRETARY, VICTIM PROTECTION BOARD

CHAPTER 1

1.0 INTRODUCTION

1.1 Background

Victims of crime have been marginalised and situated on the periphery of the criminal justice process with little focus on their rights. The criminal justice process focused more on addressing the rights of an accused person while victims of crime continued to suffer physical, emotional, psychological and economic harm caused both by the crime and by the mechanical processes of the criminal justice system.

The recognition of the rights of victims has increased in the past few decades. The United Nations adopted two General Assembly resolutions dealing with the right to victims: the 1985 Declaration of Basic Principles for justice for Victims of Crime and Abuse of Power and the 2006 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law. These developments have led to parallel developments where domestic legal systems evidence a wide movement towards the recognition of the rights of victims of crime. Locally, Kenya has recognised the rights of victims and enshrined in the Constitution of Kenya. Article 50(9) of the Constitution stipulates that Parliament shall enact legislation providing for the protection, rights and welfare of victims of offences.

The Victim Protection Act was enacted on 4th September 2014, to give effect to Article 50 (9) of the Constitution. The Act provides for the protection of victims of crime through reparation, compensation and special protection for vulnerable victims and the development of a mechanism for dissemination of information, provision of victim support services. The implementation of the Victim Protection Act, 2014 is bestowed upon the Victim Protection Board which is established under section 31 of the Act.

1.2 Overview of the Victim Protection Board

The Victim Protection Board was gazetted vide gazette notice number 2487 of 10th April, 2015. The Victim Protection Board during its 1st Board Meeting held on 8th October, 2015 resolved to urgently implement the Act and functions as provided for in the Act. The Solicitor General chairs the Board while the Secretary to the Board is the

Director of the Witness Protection Agency. Further, the Secretary to the Board chairs the technical committee which is comprised of members drawn from the Victim Protection Board and technical officers from the various stakeholders represented on the Board. The Secretariat is mandated to assist the Board to carry out its immediate functions.

1.3 Mandate

The key mandate of the Board is to advise the Cabinet Secretary responsible for matters relating to Justice (Attorney General) on inter Agency activities aimed at protecting victims of crime. The board is also charged with the implementation of preventive, protective and rehabilitative programmes of victims of crime.

Vision

To be the lead institution in the protection of rights and welfare of victims of offences in Kenya

Mission

To protect, rehabilitate and compensate victims of offences through formulation and implementation of comprehensive and integrated programmes

1.4 Functions

Section 32 of the Victim Protection Act set out the functions of the Victim Protection Board which includes advising the Cabinet Secretary on inter-agency activities aimed at protecting victims of crime and the implementation of preventive, protective and rehabilitative programmes for victims of crime. The Board is also expected to advise the Cabinet Secretary on:

- (a) formulation of a comprehensive and integrated program to protect victims of crime;
- (b) coordination of activities relating to the protection of victims of crime;
- (c) dissemination of information relating to the victim of crime to concerned agencies and organizations;

- (d) development of a charter for victims of crime;
- (e) formulating and coordinating training programs for law enforcement agents on victim protection;
- (f) monitoring and evaluation of the progress of Kenya concerning the protection of victims of crime;
- (g) consultation and advocacy with Government departments and agencies and non-governmental organizations, to advance the purposes of this Act;
- (h) compilation and documentation of desegregated data annually, by age, County and gender, of victims of crime for purposes of policy formulation and program direction;
- (i) development of mechanisms to ensure the timely, coordinated, and effective response to cases of victim protection;
- (j) undertake measures necessary to rehabilitate victims of crime and in particular —
 - (i) implementation of including education for victims of crime;
 - (ii) the provision of shelter and psychosocial support to vulnerable victims;
- (k) Measures to reduce re-victimization in the justice system.

Reporting Obligations

Under Section 33 of the Victim Protection Act, the Board shall, in every year, submit to the Cabinet Secretary and to the National Assembly, an annual report of the policies, programmes and activities relating to the implementation of the Act.

CHAPTER 2

2.0 REPORT OF THE ACTIVITIES AND ACHIEVEMENTS OF VPB

2.1 New staff

The Board received new State Counsel, who were posted to the Secretariat to assist the Board to realize its objectives, the staff were able to interact with Board through online meetings that were set up on the Webex platform due to covid-19 regulations that limited physical interactions.

2.2 Appointments to the Victim Protection Board

During the financial year 2020/21, the representative of the National Police Service in the Board retired. The Board wrote to the Hon. AG seeking appointment of the Board Member. We are glad to report that the Hon. AG formally appointed the new representative of the National Police Service.

2.3 Review of the Strategic Plan for VPB 2019-2023

During the financial year, 2020/ 21 the Board planned to review the VPB Strategic plan for the next five (5) years. The strategic plan is timed to coincide with the 3rd Medium Term Plan of the Kenya Vision 2030(MTP3). The key activities and deliverables of the board have also been included in the OAG/DOJ strategic plan 2018-2022.

Due to Covid-19, the Board was unavailable to conduct this activity, to protect its staff and to comply with the Ministry of Health regulations on Covid-19, staff were to work from home. The Board is optimistic that it will achieve its objectives in the next financial year.

2.4 Proposed structure

During the financial year 2020/21, the proposed structure is yet to be implemented. The Board continues to operate with the technical committee as earlier approved. The Board still proposes the following structure for the proposed deployed staff:

- a) Chief Executive Officer
- b) State Counsel (5)
- c) Finance (1)

- d) ICT Officer (1)
- e) Accountant (1)
- f) Secretary (1)
- g) Clerk (1)
- h) Support Staff (1)
- i) Records Officer (1)
- j) Driver (2)

Technical officers will be sourced from the relevant ministries and department as and when they are required.

The secretariat will work with identified Victim's Service providers to ensure the realization of rights provided for victims under the Act since the government departments represented on the Victim Protection Board are already providing victim protection services. The secretariat will mainly coordinate and liaise with the relevant government departments providing victim services to ensure compliance with the Act.

In the long term, the Board will require a team of fulltime officers responsible for the day-to-day administration of the Secretariat and in particular, facilitate the activities of the Board and implement the decisions of the board.

2.5 Development of the Board plans

The Board developed key plans that provided a road map for implementation of the Boards' activities for the financial year 2020/21

- a) VPB work plan;
- b) VPB Procurement plan; and
- c) VPB budget;

It is noted, however with the deployed staff to the Board, there will be a need for development of various policy manuals touching on finances, human resource and other operational areas.

2.6 Recognition of VPB by Stakeholders

The Board was invited to various meetings and taskforces to give their views on issues that touch on the rights of victims. The board has given views in the following forums:

1. The taskforce on the review of the death penalty.
2. The taskforce on the power of mercy
3. Validation of the Gap analysis on Sexual violence in Kenya
4. Taskforce on the Plea-Bargaining guidelines
5. Diversion Policy.

CHAPTER 3

3.0 Financial requirements of Victim Protection Board, deployed staff and the Trust Fund

The financial needs of the Board have grown and are further projected to keep growing. This is attributed to projected activities of the Board notably the deployment of staff who are expected to enable the Board to carry out more of the planned activities that will have a corresponding growth in resource requirements.

3.1 Funds of the Board

During the current financial year under review, the funds of the Victim Protection Board were separated into two distinct vote heads. The first vote Head is the Victim Protection Board that is meant for the operations of the Board. The other vote head is the Victim Compensation Fund, which is meant to provide compensation to the Victims of crime.

The separation of the two funds was critical to ensuring the proper performance of the operations of the Board. It allows the Board to continue with its activities while awaiting the finalisation and gazettelement of the Victim Protection (Trust Fund) Regulations, 2020 that will guide the payment from the Victim Compensation Fund.

CHAPTER 4

4.0 CHALLENGES

During the financial year 2020/21, the Board continued with the implementation of activities geared towards the full operationalization of the Act. Nevertheless, there were several challenges:

5.1 COVID-19

During the financial year 2020/2021, the country faced the Covid-19 pandemic which adversely reduced the movement of citizens in the country. The Board worked online through meetings, though it was a new experience though challenging and the Board acknowledges receiving the financial allocation from the OAG & DOJ which takes longer to process requests hence hampering the activities of the Board.

4.2 Review of the Victim Protection Act.

There is still a need to amend the Victim Protection Act to address contradictions and ambiguities to bring about clarity and make other provisions for victim protection and services. The Victim Protection Act does not make provision for staffing and financing of the activities of the Board yet its activities should spread to the 47 Counties which requires sufficient human resources. There is a need for an integral body primarily established for dealing directly with victims.

5.2 Lack of awareness about the VPB

There is a general lack of awareness of the VPB within OAG & DOJ and other critical stakeholders. There is, therefore, need for an elaborate process of awareness creation. This will enhance stakeholders support and collaboration in the discharge of the mandate of the Board.

CHAPTER 5

5.0 RECOMMENDATIONS AND WAY FORWARD

5.1 Human Resource

The Office of the Attorney General and Department of Justice should, as a matter of urgency deploy adequate **technical officers and other** staff to run the secretariat and help the board in the implementation of the activities of the Board.

5.2 Finance

The Board should pursue allocation of adequate resources to enable it fully operationalizes its mandate and functions under the Act.

5.3 Review of the Act

The Board will continue lobbying for the enactment of the Victim Protection (Amendment) Bill, 2018 to address the contradictions and ambiguities in the Act clarity and make other provision for victim protection and services.

5.4 Awareness creation

The Board will pursue collaborations with stakeholders for opportunities to create awareness. The Board will seek to participate in at least four awareness creation forums.

5.5 Development of VPB Strategic Plan

The Board is in the process of developing the Victim Protection Board Strategic Plan the plan will set out the key activities and deliverables activities to fully operationalize the Board.

