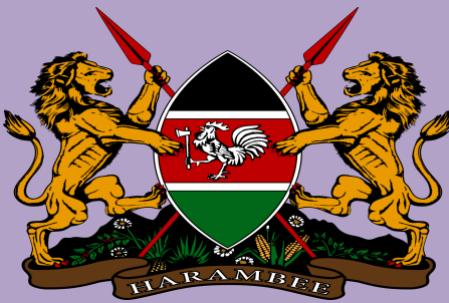


REPUBLIC OF KENYA



OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

VICTIM PROTECTION BOARD



ANNUAL REPORT 2021

30th September 2021

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LIST OF ACRONYMS AND ABBREVIATIONS

AG	Attorney General
NACCSC	National Anti- Corruption Campaign Steering Committee
NCAJ	National Council on the Administration of Justice
NCCJR	NCAJ Committee on Criminal Justice Reforms
OAG\$DOJ	Office of the Attorney General and Department of Justice
SCAC	State Corporation Advisory Committee
IJM	International Justice Mission
VPA	Victim Protection Act
VPB	Victim Protection Board
VRC	Victim Rights Charter
WVS	World Victimology Society

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 the development of this Annual Report and additionally contributing to the development of the Victim Rights Charter, The Victim Protection Board Strategic Plan 2018/2019-2022/2023, The Victim Protection (Amendment) Bill, 2021, The Victim Protection (General) Regulations, 2021 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 to advise the Cabinet Secretary responsible for matters relating to Justice (The 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 accordance with internationally accepted principles and standards. It is for this reason that stakeholders have been working tirelessly to support the Board as it sets up the requisite structures and legal frameworks that will enhance proper protection of the victims of crime.

During the year 2020/2021, the Board worked tirelessly towards the finalization of Regulations that support the implementation of the Act. This move will consequently bring the Board a step closer towards achieving a remarkable milestone that of providing the victims with an environment that empowers the victim in the criminal justice system.

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
SOLICITORGENERALAND
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 Board has finalized the development of the Victim Protection (General) Regulations, 2021, Victim Protection Trust Fund Regulations, 2021. The draft Regulations have been forwarded to the Legislative Drafting Department (a Department of the OAG & Department of Justice) for onward transmission to Parliament.

The Board successfully implemented its work plan in the financial year 2020/21. One of the objectives was the review of the draft Victim Board Strategic Plan 2018/2019-2022/2023, the same was reviewed and subjected to stakeholder's validation after which it was launched. The Victim Protection Board Strategic Plan is timed to coincide with the 3rd Medium Term Plan (MTPIII) of the Kenya Vision 2030. The key activities and deliverables of the Board have also been included in the OAG/DOJ strategic plan 2018/2019-2022/2023.

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 technical 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 Victim Protection Act, 2014 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.

1.5 Reporting Obligations

Under Section 33 of the Victim Protection Act, the Board is mandated every year to submit to the Cabinet Secretary Justice and to the National Assembly, an annual report of the policies, programs and activities relating to the implementation of the Act.

CHAPTER 2

2.0 REPORT OF THE ACTIVITIES AND ACHIEVEMENTS OF VPB

2.1 Public Participation on the Victim Protection (General) Regulations, 2020 and Victim Protection (Trust Fund) Regulations, 2020. The Constitution of Kenya 2010, initiated in a new system of governance that places the people at the centre of governance. Accordingly, all public processes including the legislative making processes require the participation of the Kenyan Citizenry. Such Public Participation ought to be effective. Effective public participation gives effect to the Constitutional principle of participatory democracy and public under public participation and participatory democracy as well enunciated in Articles 1, 10, 35, 69, 118, 174, 184, 196, 201, and 232 of the Constitution respectively.

The Victim Protection Board in adhering to the Constitutional Principles subjected the two sets of Regulations to public participation. The Board undertook public participation in 12 counties which were clustered into five regions, namely Central, Coast, Central, Nyanza and North Eastern.

The members of the public were taken through the regulations clause by clause and comments from the public were collected and collated. The comments were later incorporated into the regulations which whose aim is to operationalize the Victim Protection Board and the Victim Protection Act.

2.2 VPB Strategic Plan 2018/2019-2022/2023

The Victim Protection Board Strategic Plan which runs for the next five (5) years was reviewed, validated and launched. The Launch was launched through the relevant online platforms after careful consideration was put in light of the Covid-19 containment measures issued by the Ministry of Health. The same is available in the OAG& DOJ website.

2.3 Validation of the Victim Protection (General) Regulations, 2021 and Trust Fund Regulations, 2021

Stakeholders have a right to be consulted and involved in the legislative making process. Stakeholder consultation therefore forms a critical component of this process. It is important to note that stakeholder views should be taken into consideration when developing regulations.

The Victim Protection Board together with various stakeholders held a validation workshop to which they validated the regulations after considering the comments from the members of the Public and stakeholders. The same was forwarded to the Legislative Drafting Department for onward transmission to Parliament. This is a requirement in line with the Constitution and Statute instruments Act, 2013.

2.4 Victim Protection (Amendments) Bill, 2020

The Victim Protection Board together with its key stakeholders identified key amendments in the Victim Protection Act, 2014 which require priority amendment to ensure the working of the Board is not hampered and is seamless.

2.5 Training by World Victimology Society (WVS)

World Society of Victimology (WSV) is a global, membership-led not-for-profit, international NGO with Special Category consultative status with the Economic and Social Council (ECOSOC) of the United Nations and the Council of Europe. WSV membership includes individual and institutional members involved in activities aimed at improving the plight of victims of crime and the abuse of power. Individual members include victim assistance practitioners, social scientists, social workers, physicians, lawyers, civil servants, law enforcement officials, legislators, policy makers, academics and students.

The idea of collaboration between VPB and WSV was conceived through a series of informal exploratory correspondence over a four-year period between WSV Executive Committee member Sarah Simons and a former and subsequently the current VPB Vice Chairpersons Paul Kuria and Leah Nyambeki respectively. From the discussions, one-

day shared-learning interactive event was agreed. An online seminar was held on Friday 9th October 2020 between 9.00am and 5.00pm via zoom. WSV offered the online seminar as a free event to VPB as a complimentary gesture of solidarity to support of the board's skills enhancement.

The Board together with secretariat were taken through training by the WSV on Victim Psychology, Victim Protection and effective institutional framework for protection of vulnerable victims.

2.6 Proposed structure

The proposed structure is in line with the Strategic Plan and is yet to be implemented. The Board continues to operate with staff as earlier approved. The Board still proposes the following structure for the proposed deployed staff:

- a) Chief Executive Officer (1)
- b) Deputy Director (1)
- c) Senior Assistant Director (4)
- d) Assistant Director (4)
- e) Legal officer (10)
- f) Administrative officer (1)
- g) Victim Protection Officer (15)
- h) Finance (4)
- i) ICT Officer (2)
- j) Human resource officers (2)
- k) Procurement Officers (2)
- l) Public Communication Officer (1)
- m) Economist/ Planning Officers (2)
- n) Office administrators (5)Clerical officers (3)
- o) Receptionist (1)
- p) Records Management/Librarian (3)
- q) Driver (5)
- r) Support Staff (5)

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.

2.7 Development of the Board plans

The Board developed key plans that provided a road map for implementation of the Boards' activities for the year under review.

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

It is noted, however with the launch of the Strategic plan, there will be need for development of various policy manuals touching on finances, human resource and other operational areas.

2.8 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. NCAJ-NCCJR Committee Consultative Meeting on Victim and Witness Handling and Protection.
2. IJM psychosocial network of care
3. The taskforce on the review of the death penalty.
4. The taskforce on the power of mercy
5. Validation of the Gap analysis on Sexual violence in Kenya
6. Taskforce on the Plea-Bargaining guidelines
7. Diversion Policy.

CHAPTER 3

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

The financial needs of the Board grown and are further projected to keep growing. This is attributed to projected activities of the Board notably the sensitization of the general public on the mandate of the Board and its activities, thus pushing a step further the realisation and operationalization of the Victim Protection Act, 2014, hence the need to increase the Trust Fund to facilitate better the work of the Board.

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 gazettement of the Victim Protection (Trust Fund) Regulations, 2021 that will guide the payment to victims 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:

7.1 4.1 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.

4.3 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, 2021 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.