

REPUBLIC OF KENYA



OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

VICTIM PROTECTION BOARD



ANNUAL REPORT 2019

30th September 2019

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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 activities were undertaken under the leadership of the Attorney General and Solicitor General. The Office of the Attorney General and Department of Justice (OAG & DOJ) together with the Victim Protection Board would like to express their sincere appreciation to the Board Members and Technical Committee Members 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 contributed to the activities of the Board in one way or the other. We are conscious too of the need to incorporate best-practice standards in all that we do. We are also sincerely grateful to all stakeholders, from the State and Non-State Actors, who in profound and diverse ways contributed to this Annual Report in addition to the development of the Victim Rights Charter, The Victim Protection Act Rules and Regulations and the Rules and Regulations governing the Board of Trustees.

FORWARD BY THE SOLICITOR GENERAL

The Victim Protection Act establishes the Victim Protection Board 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 protection to the victims of crimes, who have for the longest time been ignored by the criminal justice system I am delighted to acknowledge strides by the Victim Protection Board (VPB) has made during the period 2018-2019 towards the implementation of the Victim Protection Act. I am delighted to report the achievements the board has achieved and pledge to support the activities of the Agency in line with expectations of the Kenyans and the mandate of the Board.

The operationalization of the Act, which has been a process due to the many structures that require to be put in place, would see Kenya take a new route in guaranteeing the victims their rights in line with international standards. It is for this reason that stakeholders have been working tirelessly to help the Board set up the system to have an operational system of protection of the victims of crime.

During the year 2018/2019, the Board has worked tirelessly to finalize the Regulations that support the implementation of the Act. The Regulations, once approved and now that the Board of Trustees were gazetted, 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 to be for their benefit.

The Board of Trustees in its inaugural meeting committed that the compensation of the victims of crimes as envisaged in the Act will be fast-tracked. I am confident that the team appointed will drive the agenda of the Fund towards providing the victims with a form of reparation for the loss that most of them suffer because of the offences.

Despite the numerous challenges that the Victim Protection Board has faced, there has been a will and determination for progress as contemplated in the Act. Lack of adequate funds, human resources and awareness of the functions of the Board have made it harder for the Board to fully execute its functions. For this reason, I thank the team for always looking beyond the challenges and offering their expertise.

The achievements of the Board have so far been remarkable. I would urge the Board 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 2018/2019.

During the financial year 2018/19, the terms of the representatives of the National Gender and Equality Commission and FIDA in the Board ended. We are glad to report that the Hon. AG also formally appointed the new representatives of the National Gender and Equality Commission and Federation of Women Lawyers.

The Board of trustees of the Trust Fund also held its inaugural meeting. 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, 2018, Victim Protection Trust Fund Regulations, 2018 and amendments to the Victim Protection Act. The draft Regulations and the amendment Bill are with the legislative drafting to the Legislative Drafting Department of the OAG & Department of Justice.

The board implemented its work plan in the financial year 2018/19, which provided for the formulation of this strategic plan. 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. The Board is committed to finalizing the draft strategic Plan and other outstanding Board activities to fully operationalize the Board.

May I take this opportunity to thank the Acting CEO and the technical committee 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

For a long time, 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 continued to suffer physical, emotional, and economic harm caused both by the crime and by the grinding processes of the criminal justice system.

The Kenyan society has come to the realisation that victims of crime are vital to the operation of the criminal justice system. Consequently, the rights of the victims have become a matter of priority concern. 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 and for 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 is bestowed upon the Victim Protection Board established by the Act

1.2 Overview of the VPB

The Victim Protection Board vide gazette notice number 2487 of 10th April, 2015. The Victim Protection Board during its 1st Board Meeting held on 8th October, 2015 where the Board 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 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 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 protection of victims of crime;
- (c) dissemination of information issues relating to victim 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 Kenya with respect to protection of victims 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.

In accordance with Section 33 of the 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 Appointment of the Victim Protection Board of Trustees

The Board of Trustees of the Victim Protection Trust Fund was appointed on 27th March 2018 vide Gazette Notice No. 3554. The Board of Trustees held its first inaugural meeting on 21st March 2019. The Ag. Chief Executive Officer also sits in the Board.

In the financial year 2019/20, the Board will endeavour to enrol its members for SCAC group training. In the alternative, the Board will source trainers from SCAC to facilitate the Board training.

2.2 Appointments to the Victim Protection Board

During the financial year 2018/19, the representative of the National Gender and Equality Commission in the Board retired. The term of one of the representative of the civil society (FIDA) on the Board came to an end, while the representative from the Department of Children Services was transferred to a different section. The Board wrote to the Hon. AG seeking re-appointment of the members whose term had come to an end and appointment of three Board Members to replace those who had ceased to be members of the Board. We are glad to report that the Hon. AG formally appointed the new representatives of the National Gender and Equality Commission, Department of Children Services and Federation of Women Lawyers (FIDA).

2.3 Development of the draft Strategic Plan for VPB 2019-2023

During the financial year, 2018/ 19 the Board developed the zero draft of 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.

Towards achieving this, the AG appointed a senior officer to act as the CEO of the Board.

With the enhanced capacity of the deployed staff, the Board is optimistic that it will achieve its objectives for the financial year.

2.4 Proposed structure

During the financial year 2017/18, the proposed structure was not fully constituted. The Board continued 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 (3)
- 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 (1)

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 2018/19

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

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

2.6 Development of the Victim Protection (General) Regulations

During the year under review, the Board organized a retreat and developed the Victim Protection (General) Regulations, 2018. The Regulations were submitted to the Legislative Drafting Department of the Office of the Attorney General and Department of Justice.

The Regulations were also circulated to stakeholders by email and in hard copy for their comments in line with meeting the requirements of public participation.

2.7 Development of the Victim Protection Trust Fund Regulations

The Board developed the Victim Protection Trust Fund Regulations. The Regulations were sent to the National Treasury for their views and the Board is awaiting comments from the National Treasury in order to finalize the Regulations. The Regulations, once Gazetted shall guide the operations of the Gazetted the Board of Trustees.

2.8 Victim Protection (Amendment) Bill, 2019

Over the course of implementing the Act, the Board has realised that there are gaps in the Act that hamper implementation. In an effort to address those gaps the Board held a retreat and developed the draft Victim Protection (Amendment) Bill, 2019.

2.9 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:

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1. The taskforce on the review of death penalty.
2. Validation of the Gap analysis on Sexual violence in Kenya
3. Taskforce on the Plea-Bargaining guidelines
4. 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 been growing 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 gazettment of the Victim Protection (Trust Fund) Regulations that will guide the payment from the Victim Compensation Fund.

3.2 Gazettment of the members of the Victim Protection Board of Trustees

During the reporting period, the Board of Trustee for the Victim Trust Fund were appointed to operationalize the fund including developing systems for disbursement of victim compensation funds. The Appointments came at a crucial moment and would be instrumental in ensuring there is progress in terms of implementation of the Victim Protection Act.

CHAPTER 4

4.0 CHALLENGES

During the financial year 2018/19, the Board continued with the implementation of activities geared towards the full operationalization of the Act. Nevertheless, there were a number of challenges:

4.1 Human Resource

Since the inception of the Board, there has been no secretariat constituted to assist the Board in its operations. The Board operates as the individuals and a lean skeleton staff derived from the Board representatives. The Board has made a request from the OAG&DOJ and is still awaiting the response on the same. As such, the Board still lacks the prerequisite staff to run its operations. The human resource remains the main challenge in the running of the affairs of the Board.

4.2 Financial requirements for the Board

The financial needs of the Board have continued to grow. This is attributed to the projected activities of the Board.

The Board continued to receive financial allocation from the OAG & DOJ which takes longer to process requests and to facilitate the activities of the Board. Going forward, the Board will seek authority to open a bank account to hold its fund separately from OAG & DOJ. This will enable the Board to access funds for the Board activities such as funds for the victim services.

4.3 Review of the VP Act.

There is still a need to amend the VP Act to address contradictions and ambiguities in order 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 Counties. Apart from the board, there is need for an integral body primarily established for dealing directly with victims.

4.4 Lack of awareness about the VPB

There is still a general lack of awareness within AOG & 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 in order to address the contradictions and ambiguities in the Act in order to bring about 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.

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