



THE NATIONAL ASSEMBLY

DATE: 21 NOV 2023

DAY  
TUESDAY

REPUBLIC OF KENYA

TABLED

HON OWEN BANYI, MP  
Deputy Leader, majority  
inlaw, mshuki

CLERK-AT

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

### VICTIM PROTECTION BOARD

## ANNUAL REPORT FOR THE FINANCIAL YEAR

### 2022/ 2023

*Prepared and issued pursuant to Section 33 of the Victim Protection Act, 2014*

September 2023



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## LIST OF ACRONYMS AND ABBREVIATIONS

|         |  |
|---------|--|
| AG      | Attorney General   |
| FIDA    | Federation of Women Lawyers (Kenya)                      |
| CEO     | Chief Executive Officer                                  |
| CPD     | Continuous Professional Development                      |
| IJM     | International Justice Mission                            |
| IMLU    | Independent Medico-Legal Unit                            |
| NCAJ    | National Council on the Administration of Justice        |
| NCCJR   | NCAJ Committee on Criminal Justice Reforms               |
| NGEC    | National Gender and Equality Commission                  |
| NPS     | National Police Service                                  |
| OAG&DOJ | Office of the Attorney General and Department of Justice |
| ODPP    | Office of the Director of Public Prosecutions            |
| SCAC    | State Corporation Advisory Committee                     |
| SG      | Solicitor General  |
| SGBV    | Sexual Gender Based Violence                             |
| TV      | Television   |
| VPA     | Victim Protection Act, 2014                              |
| VPB     | Victim Protection Board                                  |
| VRC     | Victim Rights Charter                                    |
| WPA     | Witness Protection Agency                                |

## ACKNOWLEDGEMENT



The report highlights the overall performance of the Victim Protection

Board and the progress made in the execution of its statutory mandate during the financial year 2022/2023. The report was prepared in observance and compliance with Article 1, Article 3(1) Article 28, Article 47, Article 50(7) and Article 50(9) of the Constitution and Section 33 of the Victim Protection Act No. 17 of 2014.

The Victim Protection Act, 2014 requires the Board to submit to the Cabinet Secretary and the National Assembly every financial year, an Annual Report of the policies, programmes and activities relating to the implementation of the Act.

This annual report is also based on the 2018 – 2023 Strategic Plan which lays down the Board`s four-year plan. The Plan is set out to achieve a number of remarkable milestones aimed at realizing the Board`s Vision. These include; (i) developing and implementing guidelines and toolkits on victim protection, victim rights enforcement; (ii) compliance with the Constitution, and the Victim Protection Act; and (iii) building internal staff capacity. This Plan is anchored on Kenya`s development blueprints; the Constitution of Kenya 2010, Bottom-Up Economic Agenda (BETA), MTP IV, Kenya Vision 2030 and the Sustainable Development Goals. These blueprints were taken into account in designing the Strategic plan.

The Victim Protection Board Annual Report is a result of a conceptualization and collaborative effort involving key stakeholders drawn from the various State and Non-State Actors in the administration and criminal justice system, with each reporting area providing timely information.

The Annual Report was prepared by the Victim Protection Board (VPB) under the leadership of the Honourable Attorney-General and Solicitor General who is the Chairperson of VPB. The Office of the Attorney General & Department of Justice (OAG &DOJ) would like to express its sincere appreciation to the Board Members and the

Secretariat seconded to the Board from the OAG&DOJ and Witness Protection Agency (WPA) whose unwavering efforts and long hours led to the fruition of this Annual Report 2022/2023.

We also would want to thank our outgoing members, Ms. Hannah Maingi - Correctional Services and Ms. Jostine Barmao – NPS, for their unwavering support and acumen of leadership in driving the Victim Protection Board agenda towards remarkable achievements that were reported in previous and current Annual Report.

Finally, we are grateful to all the stakeholders who participated in the preparation of the report in various stages and their invaluable input received to enrich this report.



Mary M. Wairagu  
Chief State Counsel & Ag. CEO  
VICTIM PROTECTION BOARD

## FOREWORD BY THE SOLICITOR GENERAL



The Victim Protection Act, 2014 establishes the Victim Protection Board, which is mandated 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 No. 17 of 2014 provides for a suitable platform to facilitate the protection of victims of crime and abuse of power who have for the longest time been overlooked by the criminal justice system and in the administration of justice.

Kenya has been one of the first countries spearheading the protection of Victims of crimes and abuse of power in Africa. I am delighted to acknowledge the strides made by the Victim Protection Board (VPB) during the period under review towards the implementation of the Article 50(9) of the Constitution of Kenya and provisions of the Victim Protection Act, 2014.

Kenya, having complied with the international principles on victim protection, 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 by enacting the Victim Protection Act No. 17 in 2014 and based on the recommendations of the Universal Periodic Review 2020, is committed to operationalizing the Victim Protection Act.

The operationalization of this Act, which is on course, will see Kenya take a new route in promoting, protecting and upholding the rights of victims in accordance with international best practices and the responsibility of the State to recognise and protect human rights and fundamental freedoms.

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 promotion and protection of the victims of crime.

During the year 2022/2023, the Board endeavoured to finalize the Victim Protection (Trust Fund) Regulations and Victim Protection General Regulations, 2022 as a step towards the operationalization of the Victim Protection Act. This move will consequently bring the Board a step closer towards achieving a remarkable milestone of protecting victims of crime during pre-trial, trial and post-trial stages, as a step towards minimizing victimization and victimhood by providing them with an environment that empowers the victim in the criminal justice system.

As the chair of the Victim Protection Board, I am committed to ensure that the objectives of the board are achieved. I commend the Board that has been resilient in seeing to it that an inter-agency taskforce was put in place to operationalize the Victim Protection (Trust Fund) Regulations. The will and determination of the Board and Secretariat has been evidenced in the progress made to date.

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 so far have 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 crime are fully realised. I am confident that the Board will achieve the desired status for victims of crime in the criminal justice system.

  
Hon. Shadrack J. Mose

Solicitor General & Chairperson  
VICTIM PROTECTION BOARD



## MESSAGE BY THE SECRETARY, VICTIM PROTECTION BOARD



I am delighted to present the report on the performance of the Victim Protection Board during the Financial Year 2022/2023. The Board carried out its targeted activities successfully and achieved a score of 100% despite the challenging environment.

The Victim Protection Board is established under section 31 of the Victim Protection Act No. 17 of 2014 with a Multi-agency membership. Section 31(2) (b) thereof provides for the Secretary of the Board as the Director of Witness Protection Agency who shall be responsible for the facilitation of the functions of the Board in implementing the Act. The Board is the only government agency mandated by law to coordinate the victim services. The victims' rights and their participation in judicial proceedings has seen the development of guiding principles and jurisprudence on victims' rights in Kenya.

I am glad that since the enactment of the Act, the Board has made considerable milestones. The Board has developed legal instruments to operationalize the Act including the Victim Rights Charter, the Victim Protection (Trust Fund) Regulations, 2022, the Victim Protection (General) Regulations, 2022 and the Victim Protection (Amendment) Bill, 2022.

The Board has been collaborating with key partners both state and non-state actors in the furtherance of the objects of the Act including but not limited to National Treasury, Judiciary, State Department for Correctional Services, Office of the Director of Public Prosecutions, National Police Service, Witness Protection Agency, National Gender and Equality Commission, Kenya Law Reform Commission, Kenya National Human Rights Commission, Commission on Administrative Justice, Law Society of Kenya, Independent Medico Legal Unit, International Justice Mission, FIDA Kenya, among others.

The Board continued to sensitize the members of the public on Victim Protection Act No. 17 of 2014 and Victim rights. We are happy to announce that during the period under review, the Board conducted civic education in 12 counties namely: Kisumu, Homabay, Kisii, Nyamira, Nandi, Kericho, Bomet, Nakuru, Kilifi, Taita-Taveta,

Mombasa and Kwale. During this civic education programmes, the Board was able to reach out to 1200 members of the public and 1200 members of the National Government Administrative officers cut across different ranks.

I take this opportunity to thank the Acting CEO and the Secretariat for their invaluable support, commitment and zeal during the year under review in driving the mandate of the Board towards its success.

Thank you and God bless Kenya.

A handwritten signature in purple ink, consisting of a stylized 'J' followed by a horizontal line and a loop.

Jedidah W. Waruhiu

Secretary

VICTIM PROTECTION BOARD

## VICTIM PROTECTION BOARD COMPOSITION



Hon. Shadrack Mose  
Solicitor General/Chair VPB



Jedidah Wakonyo  
Director-WPA/Secretary VPB



Mary Wairagu  
CSC-OAG & DOJ/Ag. CEO VPB



Joseph Riungu  
ODPP/Member



Anne Ileri  
Director-FIDA/Member



Desire Njamwea  
NGEC/Member



Peter Kiama  
IMLU/Member



Catherine Mugwe  
NPS/Member



Hitler Ongenche  
Correctional Services/Member



Judy Ndungu  
Children Services/Member



Geoffrey Momanyi  
National Treasury/Alternate Member

VICTIM PROTECTION SECRETARIAT COMPOSITION



Ms. Mary N. Wairagu  
CSC-OAG&DOJ/Ag. CEO VPB



Ms. Nancy Chepkwony  
SSC-OAG&DOJ/VPB



Mr. Kennedy Mutiso  
SSC-OAG&DOJ/VPB



Ms. Beatrice Kosgei  
SSC-OAG&DOJ/VPB



Ms. Julie Wahonya  
PLO WPA/VPB



Mr. Bildad Keke  
SSC-OAG&DOJ/VPB



Ms. Mary Mghanga  
SSC-OAG&DOJ/VPB



Ms. Aidah Kigoro  
SSC-OAG&DOJ/VPB



Ms. Abijah Kabura  
SAOA- OAG&DOJ/VPB

## 1.0 INTRODUCTION

The Supreme Court of Kenya in *Joseph Lendrix Waswa v Republic [2020] eKLR* held that, “the criminal justice processes should empower victims and that their voices should be heard –not only as witnesses for the prosecution but as rights holders with a valid interest in the proceedings and the outcome of the cause.”

Prior to the promulgation of the 2010 Constitution, victims of crime were marginalized 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, economic and social 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.

The above developments led to subsequent domestication of rights of victim of crime in legal systems and laws around the world that evidenced a wide movement towards the recognition of such rights. Locally, Kenya has recognised the rights of victims as enshrined in the Constitution.<sup>1</sup>

### 1.1 The Victim Protection Act, No. 17 of 2014

The Constitution of Kenya under Article 50(9), stipulates that Parliament shall enact legislation providing for the protection, rights and welfare of victims of offences.

Subsequently, the Victim Protection Act No. 17 was enacted on 4<sup>th</sup> September 2014, to give effect to the above article and to provide for the protection of victims of crime. The Act further makes provision for reparation, compensation, development of mechanism for dissemination of information and provision of victim support services.

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<sup>1</sup> Article.50 Constitution of Kenya 2010.

## 1.2 The Victim Protection Board

The implementation of the Victim Protection Act No. 17 of 2014 is bestowed upon the Victim Protection Board (*the Board*), which is established under section 31 of the Act. The Board is mandated to undertake inter-agency activities aimed at protecting victims of crime and the implementation of preventive, protective and rehabilitative programmes for victims of crime.

The Victim Protection Board was gazetted vide gazette notice number 2487 of 10<sup>th</sup> April 2015. The members are appointed on a three-year term renewable once for another three years. The Composition of the Board is as follows:

- a. **Chairperson** appointed by the Cabinet Secretary from among the members. Currently the **Solicitor General** is the chairperson;
- b. The **Director of the Witness Protection Agency** who shall be the **Secretary**;
- c. The **Principal Secretary** of the Ministry for the time being responsible for matters relating to justice;
- d. The **Principal Secretary** of the Ministry for the time being responsible for **correctional services**;
- e. The **Principal Secretary** of the Ministry for the time being responsible for matters relating to **children affairs**;
- f. The **Director of Public Prosecutions**;
- g. The **Inspector-General of Police** or his or her representative;
- h. One person nominated by the **National Gender and Equality Commission**; and
- i. Two representatives from civil society dealing with issues relating to **children and women victim's protection**.

## 1.3 Mandate

The general 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 specifically tasked with the implementation of preventive, protective and rehabilitative programmes for victims of crime.

## Vision

To be the lead institution in the protection of rights and welfare of victims of crimes 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 the 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 rehabilitative programmes including education and protective programmes 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 required to submit an annual report of the policies, programs and activities relating to the implementation of the Act to the Cabinet Secretary Justice and to the National Assembly every year. The Board has consistently submitted its annual reports.



## 2.0 ACHIEVEMENTS OF VICTIM PROTECTION BOARD

In the year under review, the Victim Protection Board undertook various activities towards the implementation of the Act. There were notable achievements that were realized.

### 2.1 Programmes and Activities

The programmes and activities realised were as follows: -

#### 2.1.1 Courtesy call to the Attorney General

The Board paid a courtesy call to the Attorney General, Hon. J. B. Muturi who had been appointed to the State Law Office. The call was premised on the need to implement the Victim Protection Act No. 17 of 2014, which is part of the agenda of the new administration known as Bottom-Up Economic Transformation Agenda (BETA)<sup>2</sup>.

In his commitment, the Attorney General undertook to review the Act to cure the inconsistencies through a Miscellaneous Amendment Bill. He also committed to lobby for enhanced operations budget for the Board and to build a case for the operationalization of the Victim Protection (Trust Fund) Regulations both at the National Treasury and the National Assembly through the relevant committees.

#### 2.1.2 Review of the Victim Protection Act No. 17 of 2014

The Victim Protection Board together with stakeholders identified key amendments in the Victim Protection Act No 17 of 2014, which require priority amendment to ensure smooth operations of the Act. These amendments were collated into a matrix and the same were shared with the Legislative Department at OAG&DOJ for action.

#### 2.1.3 Review of the Victim Protection (Trust Fund) Regulations, 2022

The Victim Protection Board developed a draft Victim Protection (Trust Fund) Regulations, 2021. The Regulations were subjected to public participation and then forwarded to the Honourable Attorney General for onward submission to the National Assembly.

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<sup>2</sup> Under the Chapter on governance and thematic area of fundamental rights and administrative Justice, BETA commits to implement the Victims of crime law, The Kenya Kwanza Plan, The Bottom Up Economic Transformation Agenda 2022 – 2027,

The Regulations were first forwarded to the National Treasury for approval as they are a major stakeholder in the development process. The National Treasury advised that the Victim Protection (Trust Fund) Regulations, 2022 regulations were not aligned to the Public Finance Management Act (PFMA) and consequently formed an Inter-Agency Taskforce to review the Regulations to align them with provisions of Public Finance Management Act 2012. The inter-agency taskforce is expected<sup>3</sup> to submit its recommendations to the Principal Secretary National Treasury.

Terms of Reference of the Inter-Agency Taskforce were as follows: -

- a) Ensure that draft regulations comply with requirements of Section 24 of the PFM Act;
- b) Identify any consequential amendments of any laws required as a result of establishing the fund;
- c) Engage key stakeholders during development of regulations in line with the provisions of the PFM Act, 2012 and the Statutory Instruments Act, 2013 and thereafter incorporate the views of the stakeholders in so far as possible;
- d) Prepare accompanying documents required under the Statutory Instruments Act 2013; and
- e) Any other duties as may be assigned by the Principal Secretary National Treasury.

## **2.2 Activities of the VPB**

### **2.2.1 Civic education and Public Awareness**

The Board and the Secretariat in their annual work plan undertook the following activities in line with the performance contract in the year under review-

#### **a. Civic Education in Counties**

The Victim Protection Board complied with the provisions of Article 3, 10, 35 of the Constitution to involve the members of the public in dissemination of information and ensuring access to justice. The Constitutional obligation placed on the Victim Protection Act No. 14 of 2014 and by extension to the Victim Protection Board to eliminate victimization in the country through sensitization of Kenyan citizenry.

As per the performance targets for the year under review, the Board conducted the civic education in the Counties of Kisumu, Homabay, Kisii, Nyamira, Nandi, Kericho, Bomet, Nakuru, Kilifi, Taita-Taveta, Mombasa and Kwale. As a result, the Board in the year under review sensitized 2,400 citizens who were drawn from a selected target group

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<sup>3</sup> The Inter-Agency Taskforce member were appointed on 30<sup>th</sup> May, 2023

namely: National Government Administration Officers (NGAO's), Religious Leaders, Opinion Leaders, "Nyumba Kumi" leaders and the youth.

The exercise covered the constitutional provisions that provide for the enactment of the Victim Protection Act, as outlined in the Constitution of Kenya 2010 and also educated the public on the contents of the Victim Protection Act, No. 17 of 2014. In Particular, the areas of the Act that were given prominence were:

- i. Provisions relating to victims of crimes covered under the Victim Protection Act,2014;
- ii. Provisions relating to the guiding principles under the Act;
- iii. Provisions on the rights of victims;
- iv. Provisions on the victim services; and
- v. The procedures of registering a victim under the proposed Regulations.

#### b. Radio and TV Talk Shows

The Victim Protection Board sensitized the citizenry on the Victim protection Act in the following radio stations: Radio Yetu, Kass FM International, Radio Waumini, and Radio Injili. In addition, the members sensitized the citizenry on One Accord Tv and Kass Tv. The sensitization targeted the indigent members of the society.



*Ms. Nancy Chepkwony and Mr. Bildad Keke, Technical Committee members of VPB, after a radio talk show on the Victim Protection Act at Radio Yetu in Nakuru County.*



*Ms. Diana Sang and Mr. Kennedy Mutiso (VPB Technical Committee members) at One Accord TV in The Law and You talk show on the Victim Protection Act).*



*Mr. Kennedy Mutiso, Ms. Diana Sang State Counsel from OAG&DOJ and Mr. Kenneth Mbaabu Tv Host at One Accord Tv on the Law and You Talk show.*



*Mr. Kennedy Mutiso during an Interview with Kass Tv on Victim Protection Act, 2014.*

### c. Public awareness in Educational Institutions

In the second quarter of the financial year under review, as part of Continuous Professional Developments (CPDs), the Victim Protection Board in conjunction with the Judiciary Academy, trained Magistrates and Judges on the merging areas of victim protection in criminal justice system on the 6<sup>th</sup> – 23<sup>rd</sup> of October, 2023 in Naivasha. Emphasis was placed on the participation of victims in the court process.

### d. Induction of the Victim Protection Board

The term of the inaugural Board that was appointed in 2015 having lapsed in 2021 the Board held an induction of new Board members from the 3<sup>rd</sup> -7<sup>th</sup> October 2022 in Nakuru in compliance with the Executive Order No. 7 dated 25<sup>th</sup> March, 2015 that required all Boards of State Corporations to implement the provisions of MWONGOZO, the Code of Governance for State Corporations. The Objective of the induction was to build institutional and technical capacity that will enhance efficiency in the realization of the VPB's mandate, objectives and enhance service delivery to victims of crime. The training also aimed at promoting responsible decision-making, ensure effective communication to all stakeholders and help ensure the protection and good management of the public resources entrusted to the Board.

e. Review of the Victim Rights Charter

The Charter having been in place since 2017 and with the change of administration, the Board, pursuant to section 19 (4), 32 and 33 reviewed the VRC in Machakos County at Machakos University from 14<sup>th</sup> to 18<sup>th</sup> November, 2022. The object of the review was to align it with the Constitutions, emerging areas of Law, jurisprudence on the rights of the victim, the draft Victim Protection (General) Regulations and the BETA of the Government of Kenya. The Board in the year under review initiated the consultations with ODPP and Judiciary as prescribed by law under Section 19 (4) of the Victim Protection Act.

f. Launch of the Victim and psychosocial report

VPB together with IJM and other stakeholders at the Radisson Blue hotel in Nairobi on the 14<sup>th</sup> of March, 2023 launched a booklet on mental health and psychosocial support for victims and witnesses. The launch was as a result of a known legal gap in psychosocial support services. It is important to handle victims and witnesses in a sensitive manner, knowing the physiological, emotional and physical torture that they e go through. The goal was to have informed and trained justice actors on handling of victims and witnesses in the criminal justice system.



*Ag. CEO- VPB Mrs. Mary Wairagu together with VPB – Secretariat during the Launch of the Victims and Witnesses Psychosocial support booklet.*

## 2.3 Pictorials for Board Activities



*Mrs. Mary Wairagu, Chief State Counsel & Ag. CEO - Victim Protection Board, together with Mr. Desire Njamwea, Ms. Judy Ndungu and Ms. Hannah Maingi, Victim Protection Board Members, together with OAG&DOJ Staff paid a courtesy call to Mr. Simiyu (DCC) at the County Commissioner, Nakuru County during the sensitization exercise on the Victim Protection Act in the County.*



*Board Members, Ms. Jostine Barmao and Mr. Momanyi during a courtesy call to the county commissioner Kisii County.*



*Ms. Julie Wahonya, representing the Witness Protection Agency Board member in sensitizing the NGAO's in Kisumu County on the Victim Protection Act.*



*Group photo with participants and the Victim Protection Board Secretariat after an interactive session on the Victim Protection Act in Nandi County.*





*Group photo with Victim Protection Board members and the Secretariat together with the participants in Nyamira County.*



*Group Photo with the NGAO participants after the sensitization workshop in Kwale County.*



*Victim Protection Board Member Ms. Judy Njoki, Director Children Services taking members of NGAO in Mombasa County through the mandate of the Board and its composition and the services they provide.*



*Group Photo with the NGAO's Mombasa County after the sensitization forum done the Victim Protection Board at KSG – Mombasa.*



*Group photo with the Victim Protection Board member and Victim Protection Board Secretariat together the Kilifi County Commissioner.*



*Members from the Victim Protection Board- Secretariat with County Commissioner Taita-Taveta County gifting a youth leader a copy of the Constitution.*

## 2.4 Inclusion of VPB to the National Council for Administration of Justice (NCAJ) and Other Stakeholder Committees

The Victim Protection Board was co-opted as a member of the NCAJ in December 2021 and participates in various committees as indicated below:

### a. NCAJ Committees

The Victim Protection Board attends the Council meetings and is represented in the following NCAJ Committee:

#### i. National Committee Criminal Justice Reform

VPB was co-opted to the technical committee of criminal justice reforms in Kenya. Being a crucial actor, the board participated in the development and review of the sentencing guidelines policy 2022 that were adopted by the executive council of NCAJ and will be utilized by judicial officers and criminal justices sector actors in the criminal justice process. The Board, as member of the committee also undertook a scrutiny to the Penal Code Cap. 63 and Criminal Procedure Code, Cap 75 both laws that govern the criminal process in Kenya and provided crucial proposed amendments to the said Statutes to conform to the spirit of the Constitution of Kenya.

#### ii. NCAJ Committee on the Review of the Laws on Sexual and Gender Based Violence.

The VPB being a committee member, prepared the draft National Policy on SGBV and the same is awaiting public participation. Furthermore, the draft national policy informed on the need to have the National Summit on SGBV to understand the cost implication of SGBV to the economy as well as on climate change.

#### iii. NCAJ Committee on Children

The VPB is a member of the Standing Committee on Access to Justice for Children. In the period under review, the Standing committee with the input of the VPB, the following legal and policy documents were developed:

- (i) The Child Justice Strategy, 2023;
- (ii) Popular and child friendly version of the Children's Act;

- (iii) Draft throughcare and aftercare procedures for statutory children.
- (iv) Draft Parental Responsibility (Practice and Procedure) Rules;
- (v) Draft Adoption Rules;
- (vi) Draft Children (Foster care Placement) Rules;
- (vii) Draft Guardianship of Children (Practice and Procedure) Rules; and
- (viii) Draft Parental Responsibility (Practice and Procedure) Rules.

The Board's participation in the Standing Committee on Access to Justice for Children strengthened collaborations between the Board and Stakeholders in the child justice system.

In November 2022, the Board also participated in the Annual child summit, where issues concerning child victims were discussed. One of the resolutions of the summit was that the Victim Protection Board should work with the Directorate of Children Services to enhance synergies in the justice sector.

#### **b. Witness and Victims Network of Care Committee**

VPB in conjunction with IJM and other stakeholders, developed the Victim & Witness psychosocial support booklet that speaks to ensure victims and witnesses are in the proper state of mind to participate in the criminal justice system. The booklet also encourages minimising secondary victimisation from the criminal justice actors by or through the entrenchment of policies and legal framework to support the establishment and support of psychosocial support units thus recommended Parliament to ensure budgetary allocation of funds for support structures within government agencies working criminal justice actors.

#### **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 year under review.

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

Accordingly, the Board embarked on planning its second Strategic plan 2023 – 2027 where it has highlighted the need for development of various policy manuals touching on finances, human resource and other operational areas that speak to support victim protection services.

### 3.0 FINANCIAL RESOURCES AND UTILIZATION

Adequate financial resources are a prerequisite to attaining a high-efficiency level in the administration of justice and service delivery in any given institution. The Victim Protection Board as mandated by the Act No. 17 of 2014 is to provide protection, support, and assistance among other services to the victims of crime. These services are funds-consuming and require huge financial allocation.

The Victim Protection Act No. 17 of 2014 under Section 28, 1(a), provides guidance on the sources of funds available to the Board as allocated by the National Assembly, which amount is utilized for the operations only, while Section 27 establishes the Victim Protection Trust Fund, which is managed by a Board of Trustees as provided by Section 30 of the Act.

In this chapter, the Board reports on its financial status by examining its funding sources, budget allocation, and the utilization of these funds to fulfil its mandate of safeguarding the rights and interests of victims of crime in Kenya.

#### 3.1 Funding Sources:

Section 28 of the Act provides that the sources of funds shall consist of the following-

- i. **Government Allocations:** A significant portion of the VPB's budget comes from the government of Kenya. This funding is crucial for the Board's sustainability and its ability to carry out its mandate effectively.
- ii. **Donor Funds:** International organizations, foreign governments, and non-governmental organizations often provide financial assistance to the VPB. These funds can be earmarked for specific programs or projects aimed at victim protection.
- iii. **Grants:** The VPB may apply for and receive grants from both governmental and non-governmental entities to support specific initiatives or research projects.

- iv. **Partnerships:** Collaborative efforts with other organizations, such as legal aid providers or victim support groups, can also bring in additional resources in the form of funding or in-kind contributions.

### 3.2 Allocation and Utilization of the VPB Funds

Table 1: Budget absorption trend for the VPB

| FY      | Vote Heads            | Approved Budget (Kshs M) | Expenditure (Kshs M) | Absorption |
|---------|-----------------------|--------------------------|----------------------|------------|
| 2020/21 | VPB Operations        | 22,795,065               | 21,244,922           | 93 %       |
|         | VPB Compensation fund | 54,708,157               | 0                    | 0 %        |
| 2021/22 | VPB Operations        | 32,340,000               | 32,310,006           | 100%       |
|         | VPB Compensation fund | 53,610,000               | 0                    | 0%         |
| 2022/23 | VPB Operations        | 32,340,000               | 32,300,785           | 100%       |
|         | VPB Compensation fund | 500,000                  | 0                    | 0%         |

The funds indicated in table 1 shows the approved operations budget of the Board as being Kshs. 32 million for the financial year under review. The funds were fully absorbed although the VPB had other activities that were funded by donor funds to actualise its operations of the said financial year. The separation of the two funds was critical in ensuring the proper performance of the operations of the Board, thus the VPB compensation fund is to be utilised once the board has operationalized its services hence the impediment lies in the enactment of the regulations to fully operationalise the fund.

#### 3.2.1 Utilization of Funds:

Effective financial resource management is crucial for the VPB to fulfill its mandate efficiently. The board is guided by the following values and principles in discharging its mandate:

- i. **Transparency and Accountability:** The Board continues to put proper financial records, undertaking audits, and put in place reporting mechanisms to maintain transparency and accountability in the use of funds allocated.



- ii. **Efficiency and Cost-effectiveness:** The Board utilizes funds in an efficient manner, while avoiding unnecessary expenditures, and has prioritized services that directly benefit victims.
- iii. **Monitoring and Evaluation:** The Board conducted regular monitoring and evaluation of programs and projects that are funded by the VPB which has been essential to assess the impact felt by the end user which informs them to make necessary adjustments to better suit the current needs.

### **3.3 Financial needs for Victim Protection Board and Board of Trustees**

The financial needs that VPB require are pegged on various factors that inform its operations and activities for effective and efficient service delivery to the victims of crime in Kenya.

The factors that inform the financial need of the VPB include but not limited to operational costs, victim support services, awareness and advocacy, research and data collection, capacity building, administration and overhead, emergency and contingency funds, partnerships and collaboration, evaluation and impact assessment and legal and regulatory compliance.

All these factors speak to influence changes that benefit victims and improve the justice system's responsiveness to their needs. These will be effectively implemented once the VPB is fully operationalized to undertake its activities as envisaged by the Act.

#### **3.3.1 Victim Protection Board**

For any institution to fully meet its objectives, it has to be adequately funded. To implement the programmes of VPB, the Board requires a budget allocation of approximately Kshs. 114M, however the Board is only allocated Kshs.32M giving a resource gap of Kshs.82M. The funding gap has adversely affected the realisation of the envisaged engagements of the Board with the Victims of Crime.

#### **3.3.2 Board of Trustees**

In the same breath, the Board of trustees manages the Victim Protection Trust Fund that is established to give reparations to victims of crime and facilitate the services to be provided to the victim as provided for in Section 22,23,24,25 and 26 of the Act. The Board was allocated Kshs. 500 thousand in the year under review being a cut from the

53 M in the previous year due to pending Regulations with the National Treasury, the Board was unable to utilize the fund.

The financial needs of the Board are growing daily and are further projected to keep growing dependant of the crime trend in the Country. This is attributed to projected activities of the Board.

In conclusion, adequate funding and the proper utilization of funds are essential to ensure that the VPB can fulfill its mission of safeguarding the rights and interests of victims across the country.

## 4.0 CHALLENGES, RECOMMENDATIONS AND WAY FORWARD

### 4.1 CHALLENGES

In the financial year 2022/23, the Victim Protection Board continued to implement its activities as per the Victim Protection Act No. 17 of 2014 and in line with the Bottom-up Economic Transformation Agenda. The following challenges were encountered-

#### 4.1.1 Review of the Victim Protection Act No. 17 of 2014.

The Victim Protection Act No. 17 of 2014 has contradictions and ambiguities in the provisions for victim protection services which is not in conformity with the best practices of protecting victims of crime. The following are some of the critical areas in need of amendment; the establishment of an unincorporated Board without an Agency, the designation of the Director of the Witness Protection Agency as the Secretary to the Board and the overlap between the Board of Trustees of the Victim Protection Trust Fund and the Board members of the Victim Protection Board.

#### 4.1.2 Victim Protection (General) and (Trust Fund) Regulations, 2021

The two sets of Regulations are still pending approval from the National Treasury even as the Inter-agency Taskforce reviews the Regulations to ensure compliance with Section 24 of the Public Finance Management Act, 2012.

#### 4.1.3 Cross cutting mandate of Victim Protection.

The Parliament of Kenya has enacted various legislation on victims and placed the administration of those legislation under various ministries. This has led to confusion in the coordination process of implementing victim protection services in the country as various ministries have different planning and budgeting priorities.

#### 4.1.4 Inadequate Financial Resources.

During the financial year under review, the Board exhausted its financial allocation thus failing to undertake targeted activities aimed at operationalizing the Victim Protection Board. The Citizens continue to suffer as they cannot access the services. The overreliance on donor support shows a major challenge in the inadequate financial

resources. The resource gap of Kshs.82M would have been a boost towards the realisation of the Boards vision to having a better service delivery for victims in Kenya.

#### **4.1.5 Inadequate human capacity**

The Victim Protection Act establishes an unincorporated body hence lacks the autonomy and powers incidental for the effective and efficient discharge of the mandate under the Act.

The Victim Protection Board therefore, has no mandate to recruit its own staff. The Board has seconded staff from the OAG&DOJ who are also engaged in other additional duties within the OAG&DOJ besides the VPB activities. This has been a challenge to the extent that the Board has not fully realized its mandate.

#### **4.1.6 Inadequate tools and equipment**

The current ratio of equipment to personnel is 1:7, meaning that the basic equipment available in the office are utilized by several officers in carrying out their duties. This has really hindered the performance and delivery of services to the public.

#### **4.1.7 Lack of awareness about the VPB**

There is a general lack of awareness of the VPB within the justice sector and other critical stakeholders. This adversely affects support and collaboration from stakeholders in the discharge of the mandate of the Board.

#### **4.1.8 Lack of a consolidated database for victims of crime**

The criminal justice system provides for state and non-state actors to have data on victims of crime. However, the Victim Protection Board is not fully operationalized to coordinate the state and non-state actors in consolidating the data on victims. Consequently, this has led to fragmented data on victims which is inaccurate and unverifiable.

#### **4.1.9 Cyber-crime and technology related challenges**

The rise of cyber-crime globally, protecting victims in a digital space is becoming an increasingly important matter with the advancement of technology. There exists a complex and systemic cyber-crime, including Cyber bullying, online harassment, identity

theft among others presenting a new set of challenges in protecting victims of crime. This has led to a new set of victims whom the Act did not consider and therefore, there is need for legislative amendment to cover them.

#### **4.2 RECOMMENDATIONS AND WAY FORWARD**

From the challenges encountered, the Victim Protection Board recommends the following approaches: -

##### **4.2.1 Amendment of the Victim Protection Act, 2014**

In line with the Terms of Reference (TOR's) of the Inter- agency Task force, the members are to review and propose subsequent amendments to fully operationalize the Act and to further rectify inconsistencies, ambiguities, and ensure full alignment with the Constitution of Kenya and other relevant laws. One of the proposed Amendments is that making the Board a body corporate in order to allow it operational independence to meet its objectives.

##### **4.2.2 Approval of the Victim Protection (General) and (Trust Fund) Regulations, 2021**

The Victim Protection Board is working together with the Inter- agency Task Force appointed from the National Treasury on the conformity of the Victim Protection (Trust Fund) regulations, 2021 with section 24 of the Public Management Finance Act. The aim is to expedite the process and promptly submit the same to Parliament for approval.

##### **4.2.3 Cross-Cutting Issues**

To ensure laws that protect victims of crime in Kenya are effectively implemented and do not conflict with each other, the Victim Protection Board aims to establish and strengthen multi-agency partnerships, clear protocols and referral mechanisms for victim identification, assessment and follow-up, as well as creating joint platforms for information sharing, advocacy, and monitoring appropriate services. This will help foster cooperation and coordination among different government sectors, such as law enforcement, health, social welfare, education, and civil society that provide holistic and integrated support to victims.

Developing and implementing a national victim policy that defines the roles and responsibility of different actors, sets standards and guidelines for victim services, allocates resources and funding for victim assistance.

#### 4.2.4 Adequate Resource allocation

The Victim Protection Board should pursue resource mobilisation of adequate resources from the National Treasury, National Assembly and The Office of the Attorney General, through effective strategies to enhance resource availability and to enable the VPB to operationalize its mandate and functions under the Act. To implement the objectives of the Victims Protection Act No. 17 of 2014 in accordance with Article 59 (9) of the Constitution, the Board requires a base and progressive budget allocation of at least 114 M .

#### 4.2.5 Victim Rights Charter

Section 19(4) of the Victim Protection Act requires the Board within six months of the commencement of the Act, in consultation with the Director of Public Prosecution to develop a Victims' Rights Charter.

The Victim Rights Charter provides guidelines on specific rights to the victims, limitations, how victims qualify for them and how they access them and the specification of a minimum Standard of Service for the victims of Crime. The Board has developed the rights charter and underwent stakeholder's validation.

The Board in conjunction with stakeholders developed a draft Victim Rights' Charter in 2018, which is awaiting the Hon. Attorney General's approval and launch.

#### 4.2.5 Human Resource

The Office of the Attorney General and Department of Justice, as a matter of urgency, should deploy **adequate technical officers and other staff** to run the secretariat and help the Board implement its activities as provided for in the Victim Protection Board Strategic Plan 2018/2019-2022/2023 under the Implementation and Coordination Framework. The said Strategic plan outlines the proposed organizational structure, staff establishment and attendant human resource strategy geared towards the efficient service delivery of the VPB mandate.

#### **4.2.6 Acquisition of Tools and Equipment**

There is need to enhance budget for Victim Protection Board to enable procurement of office equipment in order enhance effective and efficient service delivery to the public.

#### **4.2.7 Strengthening partnership and collaboration**

There is utmost need to foster collaboration and coordination among various stakeholders, including government agencies, NGO's and community-based organizations for purposes of ensuring a coordinated approach to victim protection in Kenya.

This will help streamline efforts and avoid duplication of services. The Act gives sole function of coordination of victim services in Kenya to the Board which is key in the implementation of the Victim Protection Act, 2014.

#### **4.2.8 Awareness and Education**

The Board aims to continue conducting more public awareness workshops, sensitization and campaigns in more counties countrywide by educating the public about victim rights, available support services, and the importance of reporting crimes. In addition, the Board aims at organizing more workshops, seminars, and training programs for stakeholders to enhance their understanding of victim needs and how to effectively support them.

#### **4.2.9 Victim Centric Services**

The Board aims to develop victim-centric services that prioritize the well-being, safety, and dignity of the victims. This includes an analytical plan for the provision of trauma-informed care, counselling, medical support, and other necessary services to help victims recover and rebuild their lives.

There will be need to establish in future a network of crisis helplines and counselling centers accessible to victims 24/7 once the Victim Protection Act, 2014 is fully operationalized.

#### 4.4.10 Data Collection and Research

The Board is recommended to establish a robust data collection system in line with the approval of the Commissioner of Data Protection, this will facilitate into gathering information on victims, separate the types of crimes, and the respective support services that can be provided. Subsequently, it will conduct regular research and analysis to identify trends, gaps in services, and areas for improvement. Such data will also be used to inform policy recommendations.

#### 4.4.11 Capacity Building and Training

The Board aims to provide training programs for victim officers and all professionals who are involved in victim protection with the aim of enhancing their skills on victim handling and care.



## 5.0 CONCLUSION

The role of the victims of crime in the criminal justice system has ordinarily been a peripheral one yet a very critical component in the administration of justice. The victims attended court sessions only when summoned to testify while some opted to stay away out of either fear or reverence of the court or accused persons while the victim advocates' role is limited to watching brief only. The victims continued to suffer physical, emotional, and economic harm caused by both the crime and the slowly grinding processes of the justice system.

The implementation of the Victim Protection Act No. 17 of 2014 has therefore given the victims of crime a higher pedestal in the criminal justice process. The Act has placed significant roles on judicial and administrative bodies to protect the right of the victims by ensuring strict adherence to Art 10, 21(3), 27(4), 48, 49 and 50 of the Constitution of Kenya. This paradigm shift and their implications is characterized with challenges in their implementation as discussed.

The Victim Protection Board appreciates the judicial pronouncements on the matters of victim protection thereby developing guiding principles and jurisprudence on victims of crimes and strengthening the legal frameworks on victim of crime. The Victim Protection Act No. 17 of 2014 when properly implemented will result in a more approachable and responsive justice system by looking beyond punishing and reforming the offenders but novel concepts such as restorative justice, restitution and compensation as a means of providing the Kenyan society with true justice.

In Vision 2030, under its Third Medium Term Plan 2018/19-2022/23, the role of VPB is to ensure that formal collaboration mechanism exists amongst the relevant institutions through the protection of rights and welfare of victims of offences in Kenya by implementation of programmes as a means of strengthening Kenya's Criminal Justice System.

Through the Social Pillar that seeks to create a just and cohesive society, the Victim Protection Board promotes access to justice by protection of the rights and welfare of victims of offences while the Political Pillar seeks to create an issue-based people-centered, result-oriented, and accountable democratic political system. The Board

upholds the rule of law by promoting the protection of rights and welfare of victims of offences.

Data for victims is segregated among different institutions offering different services and assisting victims of crime at various levels and stages of the trial process. The Victim Protection Board as the coordinator of victim services is required to consolidate all the information of victims held by various institutions with the services offered.

The Board cannot achieve its mandate in isolation. It requires constant collaboration and coordination among its stakeholders to ensure the mandate is fully realized.

Establishment of the database for victims is one critical step to ensure that the Board at any given point is aware of the number of victims in Kenya, services offered, resource allocation required to offer the services among others. This requires a concerted effort and collaboration by all such institutions to ensure the rights of the victims of crime and abuse of power is upheld as enshrined in the Constitution, the Victim Protection Act and all other enabling statutes.

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