

# Victim Protection Shared-Learning Webinar



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# Assisting & protecting victims of crime

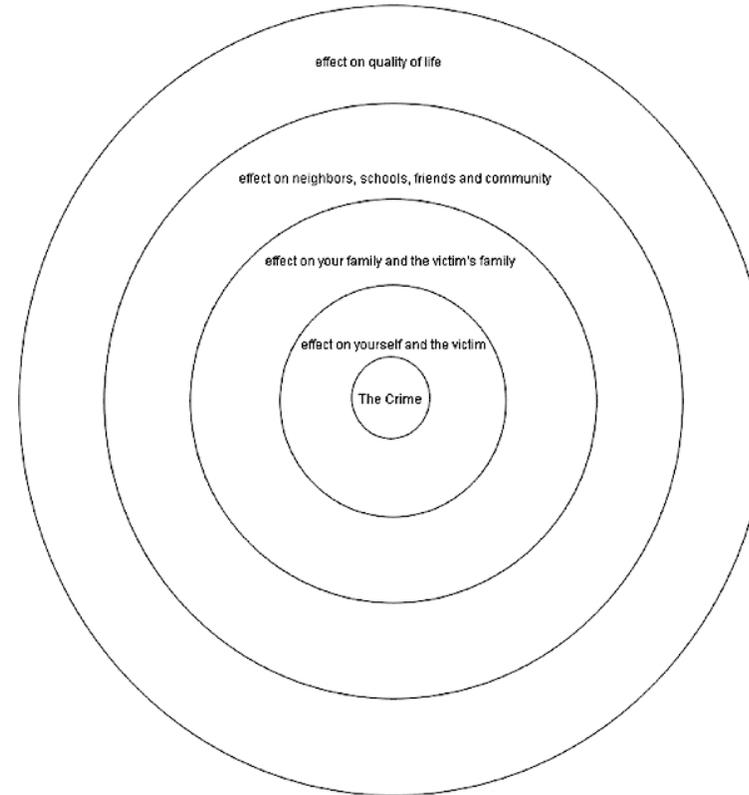
- ▶ Jambo / Nina Marni
- ▶ Aims of this presentation are:
  - ▶ To define a victim of crime
  - ▶ To identify the effects of crime on natural persons
  - ▶ To identify the needs of victims of crime
  - ▶ To list the sources of the rights for victims of crime
  - ▶ To outline the rights of victims of crime
  - ▶ To explain key concepts and elements of good practice victim assistance



# Who are affected by crime?

► The 'ripple' impact of crime may spread to—

- Direct / primary victim
- Good Samaritans / by-standers
- Victim's immediate family (spouse, partner, (step)parents, children, grand-parents);
- Victim's extended family / kinfolk (nieces, uncles);
- Victim's social network (friends);
- Victim's work colleagues;
- 'First responders' (police, para-medics, doctors, nurses, crisis care);
- Criminal justice personnel (prosecutors, judges, victim advocates);
- People assisting victims (counsellors, psychologists, funeral directors);
- Public in general.



# Who is a victim of crime?

## Ripple Effect



Direct victim & Immediate Family  
Indirect victim

*“... persons who have suffered harm in intervening to assist victims in distress or to prevent victimization ...”*

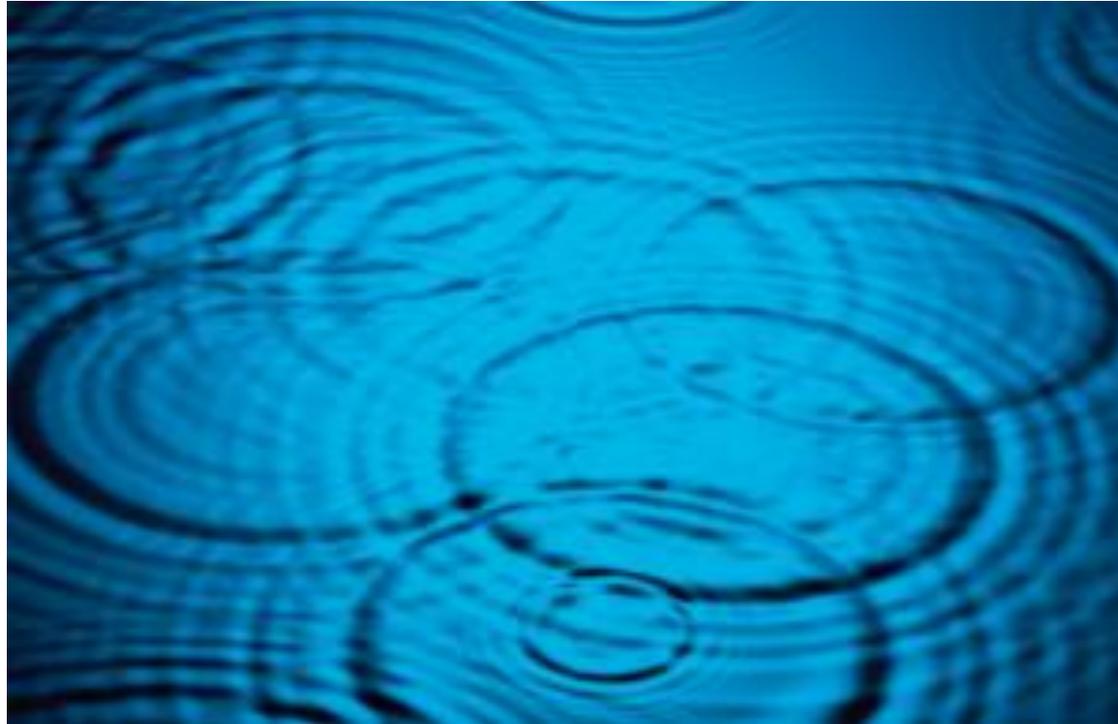
Kenyan Victims of crime charter:

“**Victim**” means any natural person who suffers injury, loss or damage as a consequence of an offence. It includes

- a) A natural person who has directly suffered injury as a result of an offence;
- b) A natural person who has indirectly suffered injury as a result of an offence committed against an immediate family member including a spouse;
- c) A natural person who is a dependent and suffers indirect injury as a result of an offence committed in paragraph (a).

# What are the effects of crime?

- ▶ Physical
- ▶ Emotional
- ▶ Psychological
- ▶ Educational
- ▶ Social support
- ▶ Practical / material
- ▶ Inconvenience
- ▶ Spiritual



“**Victims interest**” means any matter that affects the physical, psychological, economic or social situation of a victim or their rights as pronounced in the Act

## What are the needs of victims of crime?

For the most part, the needs of victims of crime can be categorized as:

- ▶ Practical / material
- ▶ Physical / safety (security)
- ▶ Medical / psychological
- ▶ Financial / monetary



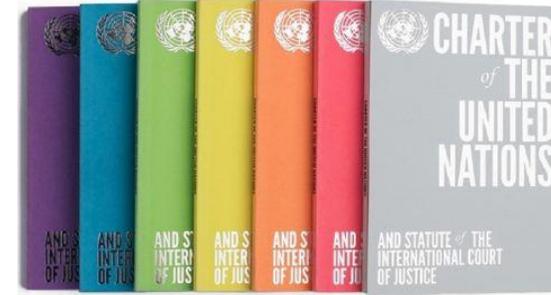
# What are the rights of victims of crime



# What are the rights of victims of crime?

## ▶ Universal Declaration on Human Rights

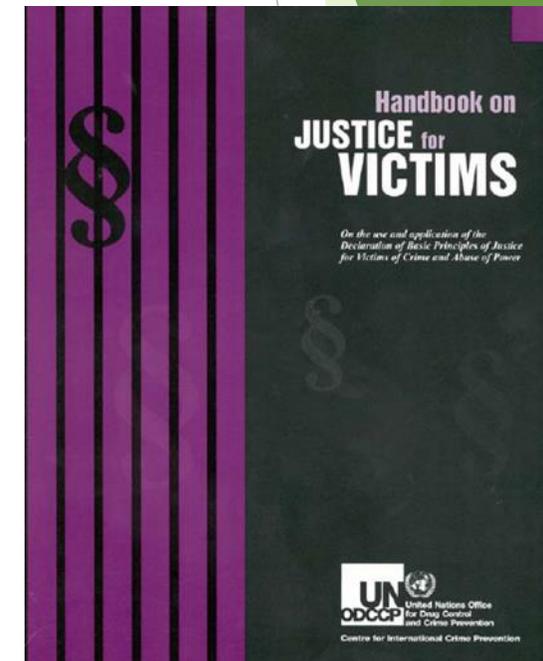
- ▶ Security of person
- ▶ Equal and effective access to justice
- ▶ Appropriate remedies
- ▶ Provision for reparation



- ▶ International Covenant on Civil and Political Rights (1966)
- ▶ International Covenant on Civil and Political Rights (1966)
- ▶ International Covenant on Economic, Social and Cultural Rights (1966)
- ▶ Convention on the Elimination of All Forms of Discrimination against Women (1979)
- ▶ Declaration of Basic Principles of Justice for Victims of Crime & Abuse of Power (1985)
- ▶ Convention on the Rights of the Child (1989)
- ▶ Guidelines for the Prevention of Crime (2002)
- ▶ Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005)
- ▶ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and International Humanitarian Law (2005)
- ▶ Convention on the Rights of Persons with Disabilities (2006)
- ▶ Declaration of Rights of Indigenous People (2007)

# What are the rights of victims of crime?

- ▶ The **Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power** outlines the following summarized principles which most observers have interpreted as the grounding for rights. Victims should be:
  - ▶ Treated with compassion and respect for their dignity
  - ▶ Entitled access to mechanisms of justice to obtain redress
  - ▶ Informed of the status of their case and their role in it
  - ▶ Allowed to present their views and concerns at appropriate proceedings
  - ▶ Provided with assistance through the legal process
  - ▶ Provided with protection of their privacy and safety
  - ▶ Given the option to use informal mechanisms for resolution of disputes
  - ▶ Provided with fair restitution from offenders
  - ▶ Provided State compensation, if offenders are unable to provide restitution
  - ▶ Entitled to social, health and other relevant assistance



# VICTIMS' RIGHTS - Rights of victims of terrorism

- ▶ Commonwealth Statement of Basic Principles of Justice for Victims of Crime (endorsed by Senior Law Officers for the Commonwealth 2005).
- ▶ VICTIM RIGHTS CHARTER -- Section 32(2) d of Victim Protection Act, 2014

# What are key elements of victim protection in legal proceedings?

- ▶ Protections related to legal proceedings:
  - ▶ Protecting the privacy and identity of victims by making proceedings confidential;
  - ▶ Providing information to victims on relevant court and administrative proceedings;
  - ▶ Assistance to enable victims' views and concerns to be presented at appropriate stages of the criminal proceedings against offenders; and
  - ▶ Legal assistance
  - ▶ Social welfare protections
  - ▶ Medical, psychological and material assistance;
  - ▶ Appropriate housing;
  - ▶ Employment, educational and training opportunities, for example by means of residency and work permits.
- ▶ Other Protections
  - ▶ According the victim the possibility to pursue compensation for damages suffered;
  - ▶ Providing for the physical safety of victims while in the nation-state's territory;
  - ▶ Repatriation of victims;
  - ▶ Allowing victims to remain in the territory temporarily or permanently in appropriate cases;

# What are key elements of victim protection in legal proceedings?

- ▶ Legal Assistance - An example - Commissioner for Victims' Rights, South Australia
  - ▶ Pre-trial
    - ▶ Consultation on charge bargaining
  - ▶ Criminal proceedings
    - ▶ Suppression order
    - ▶ Protected communications
    - ▶ Stay of proceedings
    - ▶ Sentencing (Personal / Neighbourhood / Social Impact Statements)
  - ▶ Post-trial
    - ▶ Parole
    - ▶ 'Convicted offenders' with no set parole term

# What is a victim support service?

- ▶ **“Victim service agencies”:**
  - ▶ any person or entity that is publicly or privately funded and mandated to provide services to victims, including but not limited to the national government, county government, prisons, probation and aftercare service, Department of Children Services, registered children’s homes, health providers, Witness Protection Agency, Victim Protection Board, and relevant non-state actors.

What are the 'good practice' ingredients necessary to assist victims of crime?



# What are the key concepts of assistance for victims of crime?

- ▶ Normal reactions to an abnormal situation
  - ▶ Avoid “mental health” terms and labels
  - ▶ Assume competence and capability
  - ▶ All who witness are affected
  - ▶ Respect differences in coping
- First, do no harm
  - Assistance is practical and flexible
  - Focus on strengths and potential
  - Encourage use of support network
  - Tailor for active, community fit
  - Be innovative in helping

# What are the key objectives of assistance for victims of crime?

- Promote personal and mental safety (e.g. psychological first aid)
- Provide:     Reassurance  
                  Psycho-education  
                  Practical assistance  
                  Survivor education
- Identify priority needs and solutions (e.g. security (protection))
- Screening and watchful waiting
- Assess functioning and coping
- Enhancement of social support

# Longer-Term Interventions

- ▶ Ongoing information sharing / communication
- ▶ Advocacy (e.g. assistance to exercise rights to participate)
- ▶ Medical & therapeutic interventions
- ▶ Psycho-education & awareness raising
- ▶ Programme to support the rule of law

**Asanteni**