

PEOPLE WITH DISABILITY AS VICTIMS OF CRIME: AMPLIFYING THEIR VOICES IN THE ADMINISTRATION OF CRIMINAL JUSTICE



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What is disability?

- ▶ ... any condition of the body or mind that makes it more difficult for the person with the condition to do certain activities (activity limitation) and interact with the people or circumstances around him/her (participation restrictions).
- ▶ ... NOT a single population, rather a diverse group of people with a wide range of needs.
- ▶ Dementia is one of the major causes of disability and dependency among older people globally. (WHO 2023) ... recognised as a disability under international law (UN Convention on the Rights of Persons with Disabilities).

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People with disability as Victims of Crime?

- ▶ Like other people as victims of crime, the victimisation experience for people with disability is individualised, even unique.
- ▶ People with disability may experience higher rates of violence, abuse and neglect than people without disability.
- ▶ People with disability who seek help and/or report crime turn to a variety of sources of support, from family and friends to victim services to their local disability service provider or to the police, as well as the criminal justice system.
- ▶ Victimization or trauma through negative experiences in dealings with one or more of these sources can cause a second injury, which is also referred to as secondary victimisation (Campbell & Raja 1999; Campbell et al. 2001).

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What are the rights of victims of crime?

- ▶ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) ... non-binding minimum standards for the treatment of victims of crime within domestic criminal justice systems.
- ▶ Since then, UN documents emphasise the rights of victims to participate in domestic criminal systems.
- ▶ Be **treated with compassion and respect for their dignity**, irrespective of characteristics (e.g., disability)
- ▶ Have **access to justice**, including being allowed to present their views at the appropriate stages of the proceedings, as well as legal assistance
- ▶ Be **informed** about support services, of the progress of investigation, prosecutorial decisions, and criminal proceedings, as well as court outcomes
- ▶ Be afforded **measures to protect** their privacy, ensure their safety and minimise inconvenience and minimise contact with the accused, the accused family and supporters.
- ▶ Be informed and helped to apply to the court for **restitution**, and for eligible victims to apply for **state-funded compensation**.

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Why do people with disabilities encounter difficulties exercising their rights?

- ▶ The plight of people with disability who become victims is exacerbated because:
 - ▶ People with disability face barriers in asserting their rights as victims.
 - ▶ Lack support when reporting to police, providing a statement, attending court and post hearing.

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VOICE - AMPLIFICATION - VOICE RECOGNITION

- ▶ All victims have a voice - though often it is not heard, or if heard, not listened to

AMPLIFICATION



- ▶ Voice recognition - receive and interpret in order to understand and act

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What if a person does not have the capacity to exercise a right?

- ▶ 32A Victims of Crime Act 2001 –Victim may exercise rights through an appropriate representative
- ▶ Rights granted to a victim under this, or any other, Act may be exercised on behalf of the victim by an appropriate representative chosen by the victim for that purpose.

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What steps might improve the ‘justice experience’ for people with disability?

- ▶ As with all victim populations, culturally and developmentally appropriate trauma-informed, rights-based responses are an essential aspect of quality comprehensive services.
- ▶ The demand-driven nature of victims’ rights instruments assumes that victims know their rights and how to exercise them
- ▶ Police, other first responders and prosecutors, should know the laws that govern their legal responsibilities to people with disability who become victims of crime.
- ▶ Collaboration between professionals in the victim services and disabilities fields means better services and stronger support for crime victims who have disabilities.

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What steps might improve the 'justice experience' for people with disability?

- ▶ Intermediary supports and services are critical supports to improve access to outcomes for people with disability:
 - ▶ Assist these people to achieve their choice and regain control
 - ▶ Assist these people to have their needs met in respectful and dignified ways that truly support them
- ▶ The role of the Intermediary in the criminal justice system includes:
 - ▶ Assessing the communication needs of victims;
 - ▶ Providing advice to police, court prosecution and defence about how questions should be framed; and
 - ▶ Advising other accommodations (changes, not compromises) to be made to assist the person to provide their best evidence (Plotnikoff & Wolfson, 2015}.

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Closing remarks

- ▶ Every victim matters. Every victim has a fundamental right to access the mechanisms of justice and to a chance for justice.
- ▶ Every victim also has a fundamental right to assistance that matches their needs and to a chance for healing.
- ▶ Victims with disability are credible witnesses, and their cases can be successfully investigated and prosecuted when appropriate supports, preparation, and accommodations/compromises allow for them to fully participate in the criminal justice process.
- ▶ Rather than demand people with disability meet us where we are, let's meet them where they are ...

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