
VICTIM & OFFENDER RIGHTS

**B.A. Criminology &
Police Administration
(DD & CE)**

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DJR3E - VICTIM & OFFENDER RIGHTS

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UNIT-I
VICTIM AND
CRIMINAL JUSTICE SYSTEM

VICTIM

“Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

VICTIMS’ INVOLVEMENT WITH THE POLICE AND CRIMINAL JUSTICE SYSTEM

Investigating crimes, catching criminals and protecting the community is the police's main job, but they also help victims and witnesses of crime.

Even if you don’t report a crime as the victim, someone who saw what happened might do, so it’s likely that you will have to talk to police after a crime.

If you do report a crime the police will explain what will happen next. They should also give you the contact details of the police officer dealing with your case and a crime reference number. Make a note of this number somewhere safe – you will need it if you want to contact the police again about the incident, or if you want to make an insurance or Compensation claim.

Making a statement

Once a crime has been reported, the police will start their investigation and try to find evidence. As the victim, they’ll need to talk to you and collect as much information as possible so that they can write up a statement. If you find it difficult or upsetting to talk to the police, you can ask for a break at any point.

Victim Personal Statement

After the interview, you will be asked to read the statement and check that it is correct. The police will then ask you to sign it. They should also give you the chance to make a separate Victim Personal Statement – this is your chance to say how the crime has affected you, and it will be taken into account during trial.

Getting evidence

The police may also need to collect evidence from where the crime took place, such as photos and fingerprints. If you've been injured in a violent attack or suffered a sexual crime, the police will ask you whether you agree to have a medical examination. It's your decision, but remembers that this may be an opportunity to get forensic evidence that can help bring an attacker to justice.

Keeping you informed

Investigations can take some time. The police will give you the name and phone number of the officer or ‘crime desk’ responsible for your case and will keep you informed of developments – you can also contact the police by calling 100. Have your crime number ready so that they can identify your case quickly.

What will happen after the police investigation?

If the police find the person who committed the crime, there are a number of things that could happen.

Issuing a caution

The police may decide to caution the person (unless they are a young offender, in which case they may get a reprimand or final warning). With young offenders they may suggest a restorative Justice approach. This could include asking you if you want to attend a restorative conference, where you would meet the offender along with a trained restorative justice facilitator.

A restorative justice meeting is completely voluntary. It can give you the chance to ask the offender questions and tell them how their crime has affected you.

Taking the case to court

The case will go to court if there is enough evidence and that it is in the public interest to prosecute the person accused. The police do not decide the outcome of a case; they collect evidence and pass it to the Court.

The victim making a decision about whether or not they should prosecute. It should also take into account the views of your family. You can find out more information on the CCTNS Website.

Attending court as a witness

If the CPS does prosecute, and the defendant pleads guilty, you won't have to go to court. But if the defendant pleads 'not guilty' or denies part of the offence, you might have to give evidence if you were a witness to the crime (some victims are not witnesses if, for example, they were burgled when they were away from home). If you are not needed as a witness at court, the police should still keep you informed about what happens in the case.

Who's who in the criminal justice system

The legal system in England and Wales has been around for a long time and is widely respected. But it's also complicated — particularly if you've never come into contact with it before. You can find out more about how the system works from some of the organizations involved.

Some basic information to get you started

Almost all criminal cases begin in a magistrates' court. Whether they end there or are sent to the High Court depends on how serious the crime is.

If a defendant (the person accused of a crime) is under 18, the case will normally be heard in a Juvenile Justice Board. Hearings in the Juvenile Justice Board are not open to the public and are less formal than adult courts. The most serious offences, however, such as murder or manslaughter, will be dealt with in the District Court/ High Court/ Supreme Court.

Magistrate

A magistrate (also known as a 'Justice of the Peace') is someone who lives in the local community, and has been trained to decide on cases heard in the magistrates' court.

Magistrates are volunteers, and may also sit alongside a judge in the High Court for some cases. In the magistrates' court, there are normally three magistrates who are supported by a legally trained adviser.

Sometimes cases are tried by one magistrate, who is a lawyer. They are called a district judge.

The Judge

The judge is responsible for overseeing the hearing, ruling on points of law and ensuring that the defendant gets a fair trial. Where the defendant is found 'guilty' or pleads 'guilty', the judge will pass a sentence that reflects the seriousness of the crime and takes into account the defendant's personal circumstances, and whether they have previously been convicted of similar offences.

The defence

The defendant is entitled to be legally represented in criminal proceedings, whether they pay for their legal representation themselves, or they qualify for legal aid. The defence team will take instructions from the defendant and advise them on legal matters. This will include evaluating whether the defendant has a viable defence based on the evidence presented by the prosecution.

Expert Witness

An expert witness is usually someone such as a doctor or forensic scientist, who uses their expertise to interpret the evidence, either in support of the prosecution or to help the defence case.

Sentencing

If a defendant pleads guilty, or is found guilty by the court or jury, the magistrates or a judge will decide on the most appropriate sentence to reflect the crime. The sentencing process is quite complicated, and has to follow sentencing guidelines. These guidelines help to ensure that there is a consistent approach to sentencing for similar offences across all courts.

Appeals

A person convicted by the High Court can appeal to the Court of Appeal (criminal division) against their conviction or the sentence. If their initial appeals are rejected, they can apply for permission to appeal to the Supreme Court. Someone convicted by a magistrates' court or youth court can appeal against the conviction (provided they did not plead guilty) or sentence to the High Court. Their appeal will usually be heard by a judge sitting with two magistrates.

RESTITUTION AND COMPENSATION FOR CRIME VICTIMS

Restitution

1. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

2. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.
3. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.
4. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

1. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:
 - a. Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;
 - b. The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.
2. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

VICTIM RIGHTS

The rights of the Victim are;

Access to Justice and fair treatment

1. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.
2. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.
3. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:
 - (a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;
 - (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;
 - (c) Providing proper assistance to victims throughout the legal process;
 - (d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

- (e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.
- 1. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

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Assistance

1. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.
2. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.
3. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

UNIT-II
UNITED NATIONS AND VICTIMS

UNITED NATIONS

The United Nations is an international organization founded in 1945. It is currently made up of 193 Member States. The mission and work of the United Nations are guided by the purposes and principles contained in its founding Charter.

Due to the powers vested in its Charter and its unique international character, the United Nations can take action on the issues confronting humanity in the 21st century, such as peace and security, climate change, sustainable development, human rights, disarmament, terrorism, humanitarian and health emergencies, gender equality, governance, food production, and more.

The UN also provides a forum for its members to express their views in the General Assembly, the Security Council, the Economic and Social Council, and other bodies and committees. By enabling dialogue between its members, and by hosting negotiations, the Organization has become a mechanism for governments to find areas of agreement and solve problems together.

The UN's Chief Administrative Officer is the Secretary-General. 2015 marked the 70th anniversary of the United Nations

Member States

Each of the 193 Member States of the United Nations is a member of the General Assembly. States are admitted to membership in the UN by a decision of the General Assembly upon the recommendation of the Security Council.

Main Organs

The main organs of the UN are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the UN Secretariat. All were established in 1945 when the UN was founded.

General Assembly

The General Assembly is the main deliberative, policymaking and representative organ of the UN. All 193 Member States of the UN are represented in the General Assembly, making it the only UN body with universal representation. Each year, in September, the full UN membership meets in the General Assembly Hall in New York for the annual General Assembly session, and general debate, which many heads of state attend and address. Decisions on important questions, such as those on peace and security, admission of new members and budgetary matters, require a two-thirds majority of the General Assembly. Decisions on other questions are by simple majority. The General Assembly, each year, elects a GA President to serve a one-year term of office.

Security Council

The Security Council has primary responsibility, under the UN Charter, for the maintenance of international peace and security. It has 15 Members (5 permanent and 10 non-permanent members). Each Member has one vote. Under the Charter, all Member States are obligated to comply with Council decisions. The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression. It calls upon the parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, the Security Council can resort to imposing sanctions or even authorize the use of force to maintain or restore international peace and security. The Security Council has a Presidency, which rotates, and changes, every month.

- Daily programme of work of the Security Council
- Subsidiary organs of the Security Council

Economic and Social Council

The Economic and Social Council is the principal body for coordination, policy review, policy dialogue and recommendations on economic, social and environmental issues, as well as implementation of internationally agreed development goals. It serves as the central mechanism for activities of the UN system and its specialized agencies in the economic, social and environmental fields, supervising subsidiary and expert bodies. It has 54 Members, elected by the General Assembly for overlapping three-year terms. It is the United Nations' central platform for reflection, debate, and innovative thinking on sustainable development.

Trusteeship Council

The Trusteeship Council was established in 1945 by the UN Charter, under Chapter XIII, to provide international supervision for 11 Trust Territories that had been placed under the administration of seven Member States, and ensure that adequate steps were taken to prepare the Territories for self-government and independence. By 1994, all Trust Territories had attained self-government or independence. The Trusteeship Council suspended operation on 1 November 1994. By a resolution adopted on 25 May 1994, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required -- by its decision or the decision of its President, or at the request of a majority of its members or the General Assembly or the Security Council.

International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. Its seat is at the Peace Palace in the Hague (Netherlands). It is the only one of the six principal organs of the United Nations not located in New York (United States of America). The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.

Secretariat

The Secretariat comprises the Secretary-General and tens of thousands of international UN staff members who carry out the day-to-day work of the UN as mandated by the General Assembly and the Organization's other principal organs. The Secretary-General is chief administrative officer of the Organization, appointed by the General Assembly on the recommendation of the Security Council for a five-year, renewable term. UN staff members are recruited internationally and locally, and work in duty stations and on peacekeeping missions all around the world. But serving the cause of peace in a violent world is a dangerous occupation. Since the founding of the United Nations, hundreds of brave men and women have given their lives in its service.

The Secretariat, one of the main organs of the UN, is organized along departmental lines, with each department or office having a distinct area of action and responsibility. Offices and departments coordinate with each other to ensure cohesion as they carry out the day to day work of the Organization in offices and duty stations around the world. At the head of the United Nations Secretariat is the Secretary-General.

Leadership

The Secretary-General of the United Nations is a symbol of the Organization's ideals and a spokesman for the interests of the world's peoples, in particular the poor and vulnerable. The current Secretary-General of the UN, and the ninth occupant of the post, is **Mr. António Guterres** of Portugal, who took office on 1 January 2017. The UN Charter describes the Secretary-General as "chief administrative officer" of the Organization.

Funds, Programmes, Specialized Agencies and Others

The UN system, also known unofficially as the "UN family", is made up of the UN itself and many affiliated programmes, funds, and specialized agencies, all with their own membership, leadership, and budget. The programmes and funds are financed through voluntary rather than assessed contributions. The Specialized Agencies are independent international organizations funded by both voluntary and assessed contributions.

The role of UN in establishing Victim Rights

Victims' Rights Advocate

- The Secretary-General has pledged that the United Nations will elevate the voice of victims and put their rights and dignity at the forefront of its efforts to prevent and respond to sexual exploitation and abuse. At the event, he announced his Victims' Rights Advocate.
- The role of the Victims' Rights Advocate is to strengthen the support that the United Nations gives to victims of sexual exploitation and abuse by providing them with adequate protection, appropriate assistance, and reliable recourse to justice. The Victims' Rights Advocate will work across the United Nations system, including with the agencies, funds and programmes, and collaborate closely with Resident Coordinators, in order to ensure a strong unified approach to victim assistance.

United Nations Secretary-General António Guterres has appointed **Jane Connors** of Australia as the first Victims' Rights Advocate on 23th August, 2017 for the United Nations.

The Secretary-General in his report on "Special measures for protection from sexual exploitation and abuse: a new approach", pledged that the United Nations will put the rights and dignity of victims at the forefront of its efforts to prevent and respond to sexual exploitation and abuse. As Victims' Rights Advocate, Ms. Connors will support an integrated, strategic response to victim assistance in coordination with United Nations system actors with responsibility for assisting victims. She will work with government institutions, civil society, and national and legal and human rights organizations to build networks of support and to help ensure that the full effect of local laws including remedies for victims, are brought to bear.

Victim Assistance

The protection of victims of sexual exploitation and abuse is our priority. The UN will ensure that victims receive the support and attention they deserve, from the moment an allegation is received until there is an outcome.

In 2007, the General Assembly adopted the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel. The strategy calls for the UN system to provide, in a coordinated manner, assistance to individuals with needs directly arising from an incident of sexual exploitation or sexual abuse. Such assistance can be, for example, medical care, psychosocial support, legal assistance, and immediate material needs such as food, clothing, and safe shelter. The term 'related personnel' in the title of the Comprehensive Strategy encompasses consultants, volunteers, individual contractors, personnel of partner organizations, experts on mission and peacekeepers, including both civilian and uniformed personnel.

Over the years, the mechanisms and coordination in the UN system for victim assistance have been gradually strengthened. Building on existing practices, the Secretary-General on 23 August 2017 appointed a system-wide Victims' Rights Advocate (VRA) at UN Headquarters to ensure that the United Nations system provides tangible and sustained assistance to the victims of sexual exploitation and abuse. The Advocate will work with government institutions, civil society, and national and legal and human rights organizations to build support networks and to help ensure that the full effect of local laws, including remedies for victims, are brought to bear.

Victims' rights advocates have also been appointed in locations with the most allegations of sexual exploitation and abuse in 2016. They will be responsible for ensuring that the victims who come forward with allegations are treated with the respect, sensitivity and compassion that they deserve and that the Organization will provide them with appropriate assistance in a timely manner. Importantly, the advocates will ensure that victims are provided up-to-date information on the status of their case. Where a child has been born as a result of sexual exploitation and abuse by United Nations or related personnel, the UN works to facilitate the pursuit of claims of paternity and child support. A Trust Fund in Support of Victims of Sexual Exploitation and Abuse was established by the Secretary-General in March 2016 to support services for victims. The trust fund is aimed at, among other things, engaging in community outreach and addressing service gaps in the provision of assistance and support for complainants, victims and children born as a result of sexual exploitation and abuse.

The emotional and practical needs of Crime Victims

- Treating all victims with dignity and respect.
- Fully considering a victim's perspective in approaching activities.
- Being inclusive of all parties in the criminal justice system.
- Providing victims with timely and appropriate information as long as required.
- Providing victims and those in need of assistance with access to timely and appropriate support.
- Intervening early on the issues associated with crime and Victimization.
- Emotional support
- Counselling
- Finding somewhere safe to stay
- Finding someone to speak for you and get the help you need

After a crime you might find you need help getting your life back on track in different ways, including:

- your mental and physical wellbeing
- where you live and going out
- helping your family recover
- learning new skills
- help with work
- managing your finances and claiming benefits
- help with drugs and alcohol problems

Take part in a Restorative Justice Scheme

Contact your local victim support organization, police force, or probation officer if you'd like to:

- Meet the offender involved.
- Talk about how your life has been affected

- Get answers to your questions and an apology
This kind of meeting is sometimes called restorative justice.

Helping you give your best evidence

If you're going to be a witness in court the judge or magistrates might grant you extra help to give evidence. These Special Measures are normally arranged for witnesses who:

- are intimidated or vulnerable, eg under 18
- have experienced a serious crime

Special Measures can include:

- putting screens or curtains around you in the courtroom so you can't see the suspect
- giving your evidence by live video link, so you don't have to sit in the courtroom
- getting the judge and lawyers to take off their wigs and gowns
- having your statement recorded on video to be played to the courtroom
- asking the public to leave the courtroom while you give evidence
- getting specialist help to understand questions and communicate answers through Registered Intermediaries

If you're particularly worried or afraid, you can also ask the investigating police officer for extra help.

What is Restorative Justice?

Restorative justice gives victims the chance to meet or communicate with their offender to explain the real impact of the crime - it empowers victims by giving them a voice. It also holds offenders to account for what they have done and helps them to take responsibility and make amends. Restorative justice often involves a conference, where a victim meets their offender face to face. Sometimes, when a face to face meeting is not the best way forward, the victim and offender will communicate via letters, recorded interviews or video instead.

How it can help you

It can be a chance for you to:

- Describe how you've been affected by a crime
- Get answers to questions
- And move on with life

You might also be able to agree on something the offender can do to make amends.

How it can help the offender

It can be a chance for them to:

- Understand the real impact of their behaviour
- And put a human face to their crime

It might also stop them from committing another crime

UNIT-III
MAGNA CARTA FOR VICTIMS

Hand book on Justice for Victims

Introduction

Chapter

- I. The impact of victimization
 - a The physical and financial impact of victimization
 - b Psychological injury and social cost
 - c Secondary victimization from the criminal justice system and society

- II. Victim assistance programmes
 - a Starting a victim assistance programme
 - b Types of services to be provided
 - c Crisis response, counselling and advocacy
 - d Victim participation in the justice process
 - e Victim involvement in mediation and restorative justice
 - f Victim compensation and restitution
 - g Public education and sensitization techniques
 - h Victim assistance through crime prevention
 - i Care for the victim assistance professional

- III The role and responsibility of front-line professionals and others to victims
 - a Police and victim assistance
 - b Prosecutors and victim assistance
 - c The role of the judiciary in justice for victims
 - d Prisons and alternative sanctions
 - e Schools, universities and institutes
 - f Health-care professionals
 - g Media professionals
 - h Mental health providers
 - i Clergy, spiritual and informal leaders
 - j Landlords and housing entities
 - k Employers
 - l Embassies, consulates and foreign missions
 - m Protocols for staff victimization

- IV Advocacy, policy-making and law reform: the role of civil society.
 - a Raising awareness
 - b Policy development
 - c Legislation.
 - d Funding and financial recovery

- V. Working together at the international level
 - a Regional and subregional strategies
 - b International cooperation to reduce victimization and assist victims
 - c The role of the United Nations, in particular the United Nations Crime Prevention and Criminal Justice Programme
 - d The role of non-governmental organizations
 - e Reducing victimization: towards a concerted approach

Introduction

In traditional justice systems, victims of aggression have usually found support and assistance from their family, village or tribe. The informal social network softens the impact of victimization and assists the victim in recovery. This same network often assists in the resolution of the conflict and in ensuring that any decisions made are actually implemented. Within this context, it is taken for granted that the victim (and his or her kin), the victimizer (and his or her kin) and the entire social group will share the burden of dealing with the conflict.

In many parts of the world, with the increasing complexity of society and the evolution of systems of justice, the State has gradually assumed a dominant role in the justice process. Specific forms of behaviour are defined by the State as crimes, which have come to be seen more as crimes against the State than violations of the victim's rights. The State ultimately took over the responsibility for the investigation of the offence, the prosecution of the suspect, adjudication and enforcement of the sentencing decision. The victim was afforded fewer opportunities for direct participation. Although it was often the victim who reported the offence to the authorities, subsequent decisions came to be made more with the interests of the State and the community in mind than those of the victim.

This is not to say that the historical development has been a simple one of gradual diminution of the status of the victim. Traditional justice systems have not invariably been ideal from the point of view of the victim; mobilization of the community against the aggressor depended to a large extent on the social power of the victim and the victim's social group. Moreover, modern society has sought to provide extended protection to the victim through its criminal laws and systems of social security. In addition, the different criminal justice systems and other forms of justice have not all followed an identical path of development. In some present-day systems, such as those of Islamic countries and several European countries, the victim plays a key role throughout the criminal justice process.

Nonetheless, by the middle of the present century, in many societies the victim could aptly be termed the "forgotten person" in the administration of justice. Considerable attention had quite justifiably been paid to ensuring due process for the defendant, who is, after all, threatened with State-imposed punishment, and should, therefore, be afforded every possibility of establishing his or her innocence, and/or presenting other considerations in his or her defence. This degree of attention had not, however, been paid to the victim. The State was assumed to be representing the interests of the victim and accordingly no need was perceived for direct victim involvement in the proceedings.

Since the early studies in the 1940s by Benjamin Mendelsohn and Hans von Hentig, increasing attention has been turned to the problems faced by victims, both in society in general and in their interaction with the criminal justice system in particular. Many victims face insensitive treatment by the police, prosecutors and court officials, thus causing a "second injury". This applies particularly to certain especially vulnerable categories of victims, such as migrants, minorities and victims of sexual offences, as well as refugees, prisoners of war, and civilian victims of war and civil strife. Even if the offender is apprehended and brought to trial, the experience of victims in many jurisdictions is that they have been marginalized and do not have the opportunity to express their views and concerns in the criminal justice process or in human rights courts or international tribunals. Many systems do not allow the victim to present his or her civil claim in conjunction with criminal proceedings. Even if the offender is convicted, the sanctions (often a fine, probation or imprisonment) have little relevance to the victim, other than affording the satisfaction of seeing the offender punished.

Also, other factors, such as the changes in society that have increased the scope and impact of victimization, have led to a fundamental re-evaluation of the position of the victim. The incidence of crime and of abuse of power has increased worldwide. At the same time, traditional patterns of social solidarity and dependency have been disrupted. Changes in modes of production and trends towards urbanization, which have been accompanied by extensive internal and international migration and the impairment of societal infrastructure, have diminished the role of the extended family and the force of social controls. Anomie, unemployment and a weakening of social support schemes have undermined the ability of individuals to recover from victimization.

Various jurisdictions have tried to respond to these challenges and to strengthen the position of the victim, as well as ensure access to appropriate services. One of the earliest calls for reform came from Margery Fry in the United Kingdom of Great Britain and Northern Ireland, who during the early 1950s argued for shelters for battered women, for State compensation schemes for victims of crime, and for reconciling the victim and the offender. The first State compensation scheme for victims of violent crime was adopted in New Zealand in 1963. Other examples of early reforms include the 1955 child protection legislation in Israel, and the establishment of shelters for victims of domestic violence and crisis centres for victims of sexual assault in the United Kingdom during the early 1970s.

At the international level, interest in victims can be traced back at least to the international congresses held during the late 1800s, where, for example, many called for a general return to reparation in criminal justice, an issue which has been dealt with in more recent years by organizations such as the International Association of Penal Law, the International Society of Social Defense and the International Society of Criminology. The first major international meeting focusing specifically on victims was the first International Symposium on Victimology, held in Israel in 1973, which led to the establishment in 1979 of the World Society of Victimology. A number of other international entities have since dealt with core issues related to victims of crime and abuse of power. At the intergovernmental level, the work of the Council of Europe led to the adoption of the 1983 European Convention on the Compensation of Victims of Violent Crimes (which entered into force in 1988), the 1985 recommendation on the position of the victim within the framework of criminal law and procedure, and the 1987 recommendation on assistance to victims and the prevention of victimization.

The adoption by the United Nations General Assembly of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in 1985 is by no means the only example of United Nations activity in this field. The work of the United Nations in preventing abuse of power and violations of human rights is long-standing and includes among its achievements the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women. The United Nations has also developed international guidelines to reduce abuses against the elderly, the disabled and the mentally ill, and has drafted basic principles and guidelines on reparation for victims of gross violations of human rights and humanitarian law.

In recent years the United Nations Security Council has worked to establish two ad hoc international criminal tribunals for the former Yugoslavia and Rwanda. The effort to establish a permanent international criminal court, which has continued for decades, is now close to becoming a reality through the action of the United Nations. The Preparatory Committee on the Establishment of an International Criminal Court has given positive

consideration to provisions related to victims, in particular with regard to the proposed creation of a unit for victims and witnesses.

On a practical level, the United Nations has sought to provide humanitarian assistance to victims of natural and manmade disasters. Its peacekeeping operations have also sought to assist victims of ethnic violence and civil strife. The United Nations efforts in the prevention of discrimination against minorities, and violence against refugees and other vulnerable targets, especially migrants, women and children (including the International Programme for the Elimination of the Exploitation of Child Labour) are further examples. More work needs to be done, however, to fully address the special requirements of crime victims in developing countries and in countries with economies in transition, as well as special categories of victims, such as victims of genocide, terrorism, organized crime and other types of mass victimization.

The work of individuals, organizations, Governments and international bodies to restore victims to their rightful place in legal systems and increase the quantity and quality of assistance available to victims has not been easy. Legal systems have evolved gradually over the centuries, and proposals for reforms to benefit victims have raised concerns that they may detract from the legitimate rights of others, such as suspects and defendants. Furthermore, it has often proven difficult to sensitize key representatives of the criminal justice system, policy makers, legislators and members of the community to the fact that change is needed. There may, in fact, be areas where the interests and concerns of victims are at odds with those of others. The establishment of victim services requires resources which might consequently not be available for other purposes. Various procedural rights, such as the right to confidentiality and protection, must be balanced against the rights of the defendant, such as the right to confront the accuser and to prepare his or her defence.

In most cases, however, there is no such conflict. Although services require resources, it should be realized that any member of a community may become a victim and that most crimes contribute to the victimization of other community members and the deterioration of community and societal harmony. A new framework of restorative justice, which involves the offender, the victim and the community in creating a balanced approach to justice, is becoming increasingly popular. Assistance to victims counters deleterious effects, reaffirms social solidarity and thus also benefits the community at large. Restorative approaches, such as victim-offender mediation and reconciliation, can also have a preventive effect. Ensuring that the victim has means of recourse and redress, in accordance with the legal system in force, helps to ensure that justice will be done and is clearly in the interests of society.

This is true not only within countries but also across borders. The growth of transnational crime has made international collaboration against it indispensable. Organized crime, especially trafficking in human beings, terrorism and other forms of violence, claims multitudes of victims and requires a concerted response, including preventive measures.

Massive victimization has claimed countless lives and blighted human prospects. The breakdown of the rule of law and of basic institutions in these desperate situations has made the establishment, or re-establishment, of an effective justice system an urgent priority in many countries and may require the assistance of the international community. Preventing such cataclysms is not only a task for individual societies, but the responsibility of the entire world community.

Chapter I

The Impact of Victimization

Goal: All victim assistance providers and policy makers should understand the impact of victimization in order to promote understanding of the need for assistance.

Objectives: For victim assistance providers and others who work with or on behalf of victims to understand the range of victims' reactions that are universal and to understand that these reactions may be expressed in ways that reflect a particular culture.

A. The physical and financial impact of victimization

At the time of a crime, or upon discovering that a crime has occurred, victims are likely to experience a number of physical reactions to the event. These may include an increase in the adrenalin in the body, increased heart rate, hyperventilation, shaking, tears, numbness, a feeling of being frozen or experiencing events in slow motion, dryness of the mouth, enhancement of particular senses, such as smell, and a "fight or flight" response. It is common for people to lose control over their bowel movements. Some of these physical reactions may not occur until after the danger has passed. They may recur at a later stage when the memory of the crime returns.

After the crime, victims may suffer a range of physical effects, including insomnia, appetite disturbance, lethargy, headaches, muscle tension, nausea and decreased libido. Such reactions may persist for some time after the crime has occurred.

Physical injuries resulting from victimization may not always be immediately apparent. This may be particularly true in cases of domestic violence where the injuries occur on parts of the body that are normally clothed.

Facial injuries are by far the most frequent in other forms of assault. Victims may suffer a range of physical damage, including abrasions and bruises, broken nose, cheekbone or jawbone and damage to or loss of teeth. Other injuries will be associated with assaults involving knives or firearms.

Physical injuries may be a permanent effect of crime and there is evidence that this has a negative effect on long-term psychological recovery, since the physical scars serve as a constant reminder of the crime. Cultural, gender and occupational factors may affect the individual's reaction to permanent scarring or disability, as will the reaction of others.

The financial impact of crime is less well documented. Victims may incur costs in the following ways:

- a. Repairing property or replacing possessions,
- b. Installing security measures,
- c. Accessing health services,
- d. Participating in the criminal justice process, for example, attending the trial,
- e. Obtaining professional counselling to come to terms with the emotional impact,
- f. Taking time off work or from other income-generating activities,
- g. Funeral or burial expenses

In some cases, victims may feel a need to move, a process likely to entail financial costs. As a result of the crime, the value of property may decrease.

In the long term, crime can adversely impact the victim's employment. The victim may find it impossible to return to work or their work performance may be adversely affected, resulting in demotion, loss of pay and possibly dismissal. This is particularly likely where the crime occurred at work, as it may be difficult for the victim to avoid people or situations that led to the initial victimization.

The marital and other relationships of crime victims are also likely to be affected and this may have a significant effect on the family's financial position.

Research shows that the shock waves from victimization touch not only the victim but also the victim's immediate family and relatives, neighbours and acquaintances. This holds true

for the emotional as well as the financial consequences, and the effects can endure for years or even a lifetime. In the case of genocide, child abuse, exposure to violence and abuse of power, the effects can be passed on from one generation to the next. While this is to be expected in connection with offences such as murder, torture and rape, the crimes of assault, robbery and burglary can also leave lasting feelings of powerlessness, insecurity, anger and fear. Not only individuals but also communities and organizations can be victimized, leading to their deterioration over time as confidence ebbs, fear increases and the economic burden of victimization becomes insupportable.

The effects of victimization strike particularly hard at the poor, the powerless, the disabled and the socially isolated. Research shows that those already affected by prior victimization are particularly susceptible to subsequent victimization by the same or other forms of crime. These repeat victims are often found in many countries to reside in communities with high crime levels and are also a common phenomenon during times of war. As for the impact of abuse of power, during recent years armed conflict has claimed innumerable victims, largely among civilian populations, with women and children often the primary targets. Tribal warfare, ethnic strife and other fratricidal conflicts, mass rapes, kidnappings or expulsions, "ethnic cleansing", torture, arbitrary detention and killings have greatly added to the human toll. The Office of the United Nations High Commissioner for Refugees estimates that at the beginning of 1996 there were approximately 13.2 million refugees, 3.4 million returnees, 4.6 million internally displaced persons and 4.8 million victims of armed conflict worldwide.

The use of child soldiers (10 years of age or even younger) in some places, child bondage and new forms of slavery, the sale and sexual exploitation of children, also in connection with "sex tourism", and the kidnapping and murder of street children have further increased the scale of victimization. It is estimated by the United Nations Children's Fund that during this last decade some 1.5 million children have been killed in armed conflicts, another 4 million children have been disabled, maimed, blinded or brain-damaged, and many more have been psychologically traumatized. At least 5 million children have been uprooted from their communities; between 100 million and 200 million children are being used in exploitative forms of labour; and many are living and working in the streets, where they have often been victims of unscrupulous operatives and vigilante killings.

Their very status makes refugees and internally displaced persons easy prey for abuse and they are often subject to secondary victimization. This is the case, for example, with violence against migrant workers, who may become victims of physical abuse and mental and sexual harassment by employers, intermediaries or the police, quite apart from being subjected to economic servitude. Refugees and migrants have also become targets of "hate crimes" and exploitative practice.

B. Psychological injury and social cost

Crime is usually experienced as more serious than an accident or similar misfortune. It is difficult to come to terms with the fact that loss and injury have been caused by the deliberate act of another human being. At the same time, it is evident from research and experience that it is impossible to predict how an individual will respond to a particular crime.

One way of conceptualizing common reactions to crime is as a process with four stages. The initial reaction may include shock, fear, anger, helplessness, disbelief and guilt. Such reactions are well documented in the immediate aftermath of a crime. Some of these reactions may recur at a later stage as well, for example, when attending a trial or going to hospital for medical treatment. Anger is a reaction that some victims and helpers find difficult to deal with. It may be directed at other victims, helpers, bystanders, organizations and also at

oneself. Among some groups and in some cultures there may be a feeling that it is wrong to express anger even when it is strongly felt. There may be pressure on victims to control their emotions.

These initial reactions may be followed by a period of disorganization, which may manifest itself in psychological effects such as distressing thoughts about the event, nightmares, depression, guilt, fear and a loss of confidence and esteem. Life can seem to slow down and lose its meaning. Previously held beliefs and faiths may no longer provide comfort. Behavioural responses might include increased alcohol or substance abuse, fragmentation of social relationships, avoidance of people and situations associated with the crime and social withdrawal.

For many people, there then follows a period of reconstruction and acceptance, which leads to normalization or adjustment? The early stages of coming to terms with crime are often characterized by retrospective thinking, where victims long for everything to be as it was before and to turn the clock back. This crucial stage in recovery involves victims' accepting fully the reality of what has happened. Cognitive restructuring may be required, in which victims reinterpret their experience to ameliorate the effects of the crime and possibly find an explanation for what has happened or evaluate the event as leading to personal growth.

The boundaries between these different stages are never as clear-cut as suggested here and the divisions are intended as an aid to understanding the process rather than categorical descriptions. Equally, victims may not progress smoothly through the stages, but may oscillate at times between them.

The extent to which individuals (victims, witnesses, family members, and community members) may be affected by crime will vary enormously; at one extreme, people may shrug off serious crimes with no noticeable effects, while, at the other extreme, they become "stuck" at a particular stage and never move on.

1. Post-traumatic stress disorder

In 1980, the American Psychiatric Association added post-traumatic stress disorder (PTSD) to the third edition of its *Diagnostic and Statistical Manual of Mental Disorders*, which is its homological classification scheme (subsequently revised in 1987, with a fourth edition published in 1994). The World Health Organization has refined its classification of such disorders in the tenth edition of the International Classification of Diseases. From an historical perspective, the significant change introduced by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e. the traumatic event) rather than an inherent individual weakness (i.e. a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma".

A traumatic event was conceptualized as clearly distinct from the very painful stressors that constitute the normal vicissitudes of life such as divorce, failure, rejection, serious illness, financial reverses and the like. This dichotomization between traumatic and other stressors was based on the assumption that, although most individuals have the ability to cope with ordinary stress, their adaptive capacities are likely to be overwhelmed when confronted by a traumatic stressor.

There are individual variations in the capacity to cope with catastrophic stress. While some people exposed to traumatic events do not develop PTSD, some meet the criteria for acute stress disorder, which generally lasts no more than four weeks after the event; while others go on to develop full-blown PTSD. As is the case with pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some being more protected and others more vulnerable to

developing clinical symptoms after exposure to extremely stressful situations. It must be emphasized; however, that exposure to events such as rape, torture, genocide and severe war zone stress is experienced as traumatic almost universally. Recent data from the National Comorbidity Survey of the United States of America indicate that PTSD prevalence rates are 5 per cent among American men and 10 per cent among American women.

Diagnostic criteria for PTSD include a history of exposure to a “traumatic event” and symptoms from each of three symptom clusters: intrusive recollections, avoidant/numbing symptoms, and hyper arousal symptoms. A further criterion relates to the duration of symptoms. Unlike acute stress reactions, which can appear within minutes of exceptional stress and disappear within a few hours or a few days at the most, particularly if the stress was transient, PTSD arises as a delayed or protracted response to an exceptionally stressful event. It usually starts within a few days or weeks of the traumatic event. The course fluctuates in severity and, although most victims recover, some continue with symptoms for years or a whole lifetime. Furthermore, there is evidence of intergenerational transmission whereby the children of survivors of trauma also exhibit PTSD symptoms.

The intrusive recollection criterion includes symptoms that are perhaps the most distinctive and readily identifiable symptoms of PTSD. For individuals with PTSD, the traumatic event remains, sometimes for decades or a lifetime, a dominating psychological experience that retains its power to provoke panic, terror, dread, grief or despair, as manifested in daytime fantasies, traumatic nightmares or psychotic re-enactments known as PTSD flashbacks.

The avoidant/numbing criterion consists in symptoms reflecting behavioural, cognitive or emotional strategies by which PTSD patients attempt to reduce the likelihood that they will either expose themselves to trauma-mimetic stimuli or, if exposed, minimize the intensity of their psychological response. Behavioural strategies include avoiding any situation in which they perceive a risk of confronting such stimuli. The symptoms encompassed by the hyper arousal criterion most closely resemble those observed in panic and generalized anxiety disorder.

2. Post-traumatic stress and the “conspiracy of silence”

The denial of psychic trauma and its consequences has been a prevalent and consistent theme throughout the twentieth century. There is good evidence for the claim that when people relate their trauma and are not believed (a frequent occurrence), it is because others do not want to know. To listen, to share and to gain an insight into the horrible experiences of others reminds us of our own unmitigated vulnerability, helplessness and powerlessness. Another form of rationalization is “blaming the victim”, as in blaming the rape victim for having walked alone or dressed attractively.

Stressful life events seem to unleash a strong need for sharing in victims. However, following extreme traumatic events, victims may participate in the “conspiracy of silence” by not sharing their experiences and their aftermath. In their study of torture victims and Lind found that fewer than 1 out of 10 victims disclosed details of their experience after their release. Certain experiences are seldom revealed unless specifically asked about by another who is experienced as trustworthy and therefore as a potential source of support.

Although modern telecommunications provide more and more instantaneous information on events around the world, the argument has been made that increasing and intense “coverage” may lead to apathy as efforts to cope with ever-present, overwhelming news of disturbing events result in a psychological distancing from the suffering. With the parallel exposure to fictional film and video, the distinction between reality and fantasy is blurred. War may even become entertainment. The worst case scenario occurs when the world is a helpless eyewitness and its efforts are merely symbolic, aimed solely at giving the impression that something is being done. However, it should be noted that the alternative

view holds that telecommunications advances are a major contributing factor to the increase of human concern for others.

3. Effect of trauma on subsequent responses

The literature on the role of prior trauma in subsequent trauma response affords two contrasting perspectives. The first, the vulnerability perspective, holds that prior trauma leaves permanent psychic damage that renders survivors more vulnerable when subsequently faced with extreme stress. The second, the resilience perspective, holds that coping well with initial trauma will strengthen resistance to the effects of future trauma. Both perspectives recognize individual differences in response to trauma, that exposure to massive trauma may overwhelm predisposition and previous experience and that post-trauma human and environmental factors play important roles in adaptation.

Recent evidence from both Holocaust survivors and combat veterans clearly supports the vulnerability perspective. Subsequent life events such as retirement, children leaving home, the death of a loved one and other stressful events served as triggers that accelerate and unmask latent PTSD. Solomon and Prager found similar results in elderly Israeli Holocaust survivors during the Gulf War.³ Likewise, the first neurobiological study of Holocaust survivors provides evidence that the biological abnormalities in younger PTSD patients persist in elderly survivors.

These and other studies suggest similar lifelong effects of trauma in other victim populations, most notably survivors of mass victimization. Recent studies indicate that crime victimization increases the risk of depression, PTSD, substance abuse and smoking among women aged 50 and over from a national population sample of women. These findings underline the importance of examining all populations that have been exposed to serious trauma. The issues concerned may be particularly applicable to populations that have suffered massive psychic trauma, such as Armenians, Cambodians, Rwandans and torture victims from various other countries. Recent tragic events in countries such as Bosnia and Herzegovina, Somalia and the Sudan will undoubtedly take a long-range toll and require intervention and long-term prevention strategies. It is therefore both a clinical and a social policy task to incorporate a multidimensional and interdisciplinary framework in designing appropriate responses.

C. Secondary victimization from the criminal justice system and society

Secondary victimization refers to the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.

Institutionalized secondary victimization is most apparent within the criminal justice system. At times it may amount to a complete denial of human rights to victims from particular cultural groups, classes or a particular gender, through a refusal to recognize their experience as criminal victimization. It may result from intrusive or inappropriate conduct by police or other criminal justice personnel. More subtly, the whole process of criminal investigation and trial may cause secondary victimization, from investigation, through decisions on whether or not to prosecute, the trial itself and the sentencing of the offender, to his or her eventual release. Secondary victimization through the process of criminal justice may occur because of difficulties in balancing the rights of the victim against the rights of the accused or the offender. More normally, however, it occurs because those responsible for ordering criminal justice processes and procedures do so without taking into account the perspective of the victim.

Other agencies that come into contact with the victim may cause secondary victimization. Hospital policies and procedures may restrict relatives' access to the body of a loved one. The hurried schedule of the emergency room may intrude on the privacy of a

sexual assault victim or offend his or her sense of dignity. School personnel may discount a child's disclosure of abuse. Doctors may not acknowledge signs of spouse abuse. Spiritual leaders may attempt to guide victims into paths of forgiveness or accommodation before they are ready or against their wishes. Intrusive or inappropriate investigation and filming, photography and reporting by the media are also factors.

Even agencies set up to help the victims of crime, such as victim services, victim compensation systems, refugee services and mental health institutions may have some policies and procedures that lead to secondary victimization.

The attitude of individuals is also important. Some people with whom the victim has contact (e.g. family, friends and colleagues) may wish to distance themselves from the distress of the crime by blaming the victim for what has occurred. They may view the victim's behaviour as having contributed to, or even caused, the victimization. They may deny the impact of the crime on the victim by urging him or her to forget about the crime and continue with his or her life. Families can be a particularly powerful influence in this respect.

Victims of abuse of power have particular difficulty in gaining recognition of the fact that they have been victimized. The essence of abuse of power is that it is committed by those who should be expected to protect the population. The shock and loneliness of victimization can be much greater for these victims. With regard to abuse of power, for offences committed by particular groups within a country (dominant sects or groups, companies, etc.), prompt condemnation of the action by the State and by the victim's community will help, as will the message conveyed by any practical action. Where the offender is the State itself, the principal problem of victims can be in obtaining acknowledgment that an offence has occurred. Here the groups to offer support may consist of people sharing the characteristics of those who have been victimized or who have been victimized previously themselves. Sometimes, by necessity, they have to be based outside the country.

Victimization linked to community violence derived from ethnic, racial, religious or other social conflict and/or repression requires multipronged strategies of prevention and control, as well as special attention given to the victims. The implications of severe trauma are critical not only for the present, but also for the future. The perpetuation of the vicious cycle of family violence is well known, but the massive impact of more general violence, death and lawlessness on children and on the future of entire societies is only beginning to receive in-depth attention. The consequences for children, whether they serve as pawns of armed conflict, as victims or as spectators of reprehensible acts, are bound to be far-reaching and so must be the counterstrategies.

Chapter II

Victim Assistance Programmes

Goal: *The goal of a victim assistance programme is to assist victims in dealing with emotional trauma, participating in the criminal justice process, obtaining reparation and coping with problems associated with the victimization.*

Objectives: *The objectives of the programme are to do the following:*

(a) *To increase the commitment of Governments and organizations to do everything possible to assist victims;*

(b) *To increase the range and availability of services for victims from the time of the victimization and throughout the aftermath;*

(c) *To expand the victim's opportunity to participate at all critical stages of the criminal justice process and to ensure consideration of the impact of the victimization upon the victim in all criminal justice systems and international tribunals;*

(d) *To increase coordination and networking of all appropriate agencies, organizations, groups and families, and kinship and community support systems providing services to victims or affecting the treatment of victims in order to develop an integrated system of victim assistance;*

(e) *To improve the quality of outreach to victims in need and their treatment;*

(f) *To be aware of the unique needs of underserved or new victim populations.*

A. Starting a Victim Assistance Programme

The first step in accomplishing these goals and objectives is often for appropriate government and or community agencies to establish victim service programmes dedicated to providing services to victims and helping them cope with the traumatic effects of the victimizing act and its aftermath.

Programmes should be well organized, have clearly defined goals and be appropriately staffed (with paid or unpaid staff), and they should seek the support of other partners in a network of governmental authorities.

Programmes should have the capability of providing a comprehensive system of services to victims. If they offer more limited services, such services should be coordinated with other services to ensure continuity of support for victims.

1. Assessing the requirements and resources of the jurisdiction

When initiating a victim assistance programme, an assessment should be made of the existing needs and available resources in the jurisdiction. This assessment should be updated as needed. The goals of the assessment could include the following:

- To determine the rate of victimization;
- To determine the types of victimization;
- To obtain a general understanding of the needs of victims in the jurisdiction;
- To assess the existing resources available to meet these needs;
- To determine what problems or barriers impede victim participation in the criminal justice system;
- To determine what assistance is needed;
- To identify what policies, procedures or laws need to be changed or introduced.

In order to gain a general understanding of the needs of victims in a jurisdiction, it is important to analyze the gaps in and priorities of existing victim services, in order to identify what missing services are appropriate for the programme to implement. It is also important to include consideration of special aspects such as information about age, race, ethnicity, religion, marital status, geography, economic circumstances, education and culture. For a comprehensive list of programme parameters, or issues to consider in developing a programme, see annex II of this *Handbook*.

(a) Advisory groups

It can be very helpful to establish an informal or formal group of advisers to oversee this assessment. Ideally, this group should draw upon the knowledge and interests of representatives from various professions and other sectors of society. The advisory group might include representatives from police, prosecution, health (including mental health) professionals, academic circles, local government, and representatives of people working with offenders and from the community at large and/or volunteers. Such a broad base promotes inter-agency cooperation as well as interdisciplinary approaches and provides a better picture of the needs and resources in a jurisdiction. It also facilitates information-gathering and data collection.

The advisory group should fully represent the jurisdiction, including both males and females of varying ages, and representatives of the different races, religions, cultures, geographical areas and economic status groups of the jurisdiction.

The scope of the assessment can be defined with the help of the advisory body. During the first year, the scope of the assessment should include the entire community or jurisdiction that the programme is to serve. However, programmes that serve only one type of victim may limit the assessment to the needs of that particular population group. The broader the scope of the assessment, the more useful it will be in defining the needs and identifying available resources for all victims in need.

The first requirement in assessing the shortfall between needs and provision of assistance is to establish the need by obtaining accurate data on the incidence and prevalence of victimization. Possible sources of data for the assessment include the following:

- Police reports;
- Community surveys of individual citizens, community groups and community leaders;
- Survey of social service institutions;
- Survey of criminal justice professionals;
- Participant observation of the criminal justice process;
- A study of the criminal law in the jurisdiction;
- Surveys of and interviews with victims;
- Media reports;
- Witness reports;
- Medical reports;
- Community-based service data.

Due care should be exercised to maintain the confidentiality of victim data subject to legal requirements.

(b) Victim surveys

Police report data alone will not suffice for the assessment: data from 52 countries show reporting rates by victims to be 30-40 per cent overall, with reporting rates for crimes

such as sexual assault to be as low as 10 per cent. The lowest reporting rates are found in the least developed nations.

Victimization surveys are the best way to determine its incidence and prevalence, but they are costly to do properly and keep updated. Moreover, they are unlikely to fully capture certain crimes such as spouse assault, child abuse, elder abuse and abuse of power, which are crimes that often go unreported. For such crimes, the “dark figure” of unknown victimizations will remain large. Nonetheless, it is crucial to conduct victimization surveys of these special groups so that the victim assistance response is appropriate in size and character.

These surveys may also overlook the effect of sudden, isolated cases of mass violence, such as terrorist attacks, massacres or hijackings.

Having obtained the best possible estimates of victimization, the next step will be to determine accurately the financial, medical, psychological and other costs of victimization to the victims. Developed countries have various data systems that help in determining levels of victimization (at least for individuals). However, research suggests that even these data systems capture only a fraction of the full costs of crime to its victims. Therefore, any estimates of shortfall are likely to underestimate the level of victim needs in comparison to the assistance available, unless the costs to victims are fully taken into account.

For example, a study by the Bureau of Justice Statistics at the United States Department of Justice found that in 1992, American crime victims lost \$17.6 billion in direct costs, which included losses from property theft or damage, cash losses, medical expenses and pay lost as a result of injury or activities related to the crime. For victims of abuse of power, especially in areas devastated by war, the costs are greatly magnified and must necessarily include the costs to the community and society in restoring the often massive damage to a country’s infrastructure.

The provision of assistance to individual victims will usually include formal victim services and compensation and/or restitution from both governmental and non-governmental sources. In the case of homicide and certain other crimes, assistance may be provided to the “co-victim”, such as the families of the victims themselves. Added to this—and typically more utilized by the victim—are informal sources of assistance such as family, neighbours, friends and others. Employers sometimes offer assistance. Public and private insurance plans may be available to assist with medical and psychiatric needs, as well as property losses, and to provide counsel through legal procedures and should therefore be included if they meet the needs of victims, even if that is not their primary focus.

If data on the incidence and prevalence of victimization of individuals and of its costs are weak in general, they are even weaker when it comes to crimes against business and against collective groups. Few countries have ongoing and systematic ways of capturing these data. The envisaged international survey of business victimization will be a pioneering effort to remedy this problem. Establishing the cause of business losses can be problematic in many cases, for example, inventory “shrinkage”, which can result from shoplifting, employee theft, fraudulent billing or poor record-keeping. But whatever the cause, business failure due to crime will harm the community through loss of a source of employment and tax revenue, leading to “whole community harm” that extends beyond the individual business establishment.

Sources of assistance to victimized businesses may include government loans and subsidies, as well as public and private insurance. Individuals who are victimized in connection with their employment or, for example, through forms of large-scale fraud may be entitled to special programmes of assistance provided by the Government or by the employer.

With reference to collective victims of abuse of power, such entities as the Office of the United Nations High Commissioner for Refugees and the International Federation of Red

Cross and Red Crescent Societies have assessment mechanisms that are part of their response programmes.

Steps in implementation

The completed assessment should be used to determine what services are lacking in the jurisdiction and what are the service priorities? Updated assessments should be carried out in connection with periodic evaluations of the quality of service delivery.

Implementing a victim assistance programme involves a number of steps, regardless of the jurisdiction and the scope of the service programme:

Establishing the service goals (see the analysis below);

- Developing an annual programme;
- Securing official recognition and support in order to enhance the status and leverage of the programme;
- Defining the budgetary needs and the sources of funding;
- Locating adequate and appropriate office space;
- Establishing a system for the management of cases;

Establishing service delivery guidelines with special attention to the safety of paid and volunteer staff, especially in areas affected by war;

- Developing job descriptions for paid and volunteer staff;
- Hiring, recruiting, selecting or identifying paid and unpaid staff;
- Training staff;
- Establishing regular and long-distance telephone services or alternative communication systems where appropriate;
- Identifying transportation methods or a plan to improve the physical access of victims to the services;
- Providing or upgrading office equipment;
- Identifying emergency and follow-up referral agencies in the jurisdiction;
- Informing and coordinating with referral agencies to develop a strategy to alert the public to the availability of programme services, the nature of those services and how to contact them;
- Training personnel at referral agencies in crisis assessment and referral techniques; guidelines for referral should be devised that pay due regard to the safety of the programme staff and the victim's need for confidentiality;
- Developing a public relations policy.

2. Service delivery

Victim services should ideally be prepared to assist all victims. However, on the basis of resources, the expertise of the programme staff, existing institutions and an analysis of the needs of a jurisdiction, programmes are urged to prioritize the implementation of services and to phase in a full service for victims over a period of time. In setting priorities, programmes are encouraged to use a systematic approach to take into account the severity of the victimizing event and its impact on the victim.

Outreach programmes should be developed for victims who require increased attention in a specific jurisdiction. Support services should be available during work hours daily. However, a more comprehensive programme should have all services available 24 hours a day, where this is appropriate and feasible. Such services should be provided by telephone, through on scene response, home visits or walk-in services. Often the bulk of programmes are established in the large population centre's; thus, outlying villages and towns

are overlooked. Service providers must be mindful to serve all those in need, no matter how inconvenient.

In order to serve victims who do not immediately contact a service provider, who are not immediately referred to services or who do not belong to the programme's priority victim population, several methods for contacting victims are suggested. Crisis counsellors trained in screening protocols could screen police reports twice weekly, to the extent possible, in compliance with laws on privacy. Police officers, following suitable training, could review the reports and select cases for referral. The programme could encourage police personnel, medical professionals, teachers, religious leaders and/or social service agencies to advise victims that the programme exists and ask if they object to being referred to the programme for further assistance. If there is no objection, the referral could then be made. Whatever method is used, victims should be contacted as soon as possible to be informed of the availability of services.

3. Use of information

The programme should ensure that the following are maintained:

The goals of information gathering are clearly established;

- Only necessary questions are asked of victims;
- Only necessary information is collected, recorded or maintained;
- Professionals should know what information is necessary;
- Victims are informed about how information will be used;
- Confidentiality of information is maintained in accordance with the law (and where the law is lacking, in accordance with international standards);
- The information should be used only for the purpose for which it was collected.

4. Types of services

The programme should ensure the provision of at least the following nine clusters of services (for further details, see section B of this chapter): Crisis intervention;

- Counselling;
- Advocacy;
- Support during investigation of a crime;
- Support during criminal prosecution and trial;
- Support after case disposition;
- Training for professionals and allied personnel on victim issues;
- Violence prevention and other prevention services;
- Public education on victim issues.

All victim assistance professionals should ideally receive a minimum of 40 hours of pre-service training on victimization, victim assistance and prevention (particularly violence prevention) and also continuing in-service education in these subjects. Programmes should set and review service standards and, within the programme guidelines, establish priorities for the types of services to be implemented first. However, programmes should plan to phase in all services within five years of their initiation.

5. Guidelines for developing multidisciplinary approaches

In order to develop multidisciplinary approaches to victim assistance, a programme should do the following:

- Establish a multidisciplinary network for the life of the programme;

- Identify services obtainable through partnerships, as well as possible gaps and those who should address them;
- Determine the responsibility of each member of the partnership to avoid duplication through a referral system;
- In cases where the community's infrastructure is non-functional, as in abuse of power situations, a multitude of non-governmental organizations may be operating. Thus, it is imperative to establish a coordinating office to ensure the most efficient use of existing multidisciplinary resources.

B. Types of services to be provided

Goal: To promote standards for implementing programmes and for individuals who work with victims in order to better assist victims in dealing with emotional trauma, participating in the criminal justice process, obtaining reparation, and coping with associated problems caused by the impact of victimization.

Objective: To ensure that either the programme itself or other designated agencies provide the nine clusters of services mentioned in section A of this chapter.

Most of the clusters are described in terms of their primary function (provision of emotional support, direct assistance and information). In connection with each cluster, a minimum standard of service is identified. Experience has shown that these minimum services, where needed in the individual case, are central to the victim's recovery. Additional recommended services are identified. The programme should ideally ensure that these services are also provided in the jurisdiction. (Some service clusters overlap to ensure continuity and provision of assistance.)

The victim support programme need not necessarily provide all of these services. If the service already exists in the community and the victim support programme can refer victims to it, the programme should not seek to duplicate its work. If a needed service does not exist, then the programme should either provide it directly, or help to promote its provision through another agency.

1. Crisis intervention

Victim support programmes should seek to provide at least the following services:

Emotional support: crisis intervention counselling;

Direct assistance: Emergency referrals or direct assistance with medical care, shelter, food, dependent care, property repair, and substance abuse treatment;

Information: information and referrals to meet immediate needs and concerns relating to victims' rights.

In addition, victim support programmes should seek, where possible, to provide:

Emotional support: notification of death and occasions for the identification of the body, notification of the offence to the immediate family or others;

Direct assistance: to meet the immediate need for clothing, emergency/protective shelter, money and transportation, clean-up of the crime scene and emergency repairs, protection through restraining orders, etc.

Information: information about emergency financial assistance, etc.

2. Counselling

Victim support programmes should seek to provide at least the following counselling services:

Emotional support: supportive individual and group counselling;

Direct assistance: referrals or direct assistance with protective shelter;

Information: how to prevent further victimization and substance abuse, and information and referrals for social, physical health or mental health services.

In addition, victim support programmes should seek, where possible, to provide the following counselling services:

Emotional support: long-term counselling and mental health intervention in response to trauma;

Direct assistance: assistance with the replacement of stolen, damaged or otherwise lost documents, and arrangements for the repair or replacement of stolen, damaged or otherwise lost property;

Information: information on and referrals for legal redress outside the criminal justice system, including ombudsmen, human rights associations and regional and or international means of recourse.

3. Advocacy

Victim support programmes should seek to provide at least the following advocacy services:

Direct assistance: general advocacy services for the provision of assistance in making applications for victim compensation or private insurance, intervention to ensure the continuity of the victim's credit, housing or employment, assistance with protection through protection orders and relocation or shelter for victims when needed in order to ensure access to the criminal justice system or other tribunals.

4. Support during the investigation of the crime

Victim support programmes should seek to provide at least the following support during the investigation:

Emotional support: accompaniment to occasions for the identification of the accused and to other criminal justice interviews, accompaniment to evidentiary examinations and accompaniment of victims for the identification of bodies, the crime scene and evidence;

Direct assistance: assistance with the prompt return of property, victim compensation, Restitution, protection orders and shelters or safe places available for victims;

Information: at first contact with the criminal justice system and the suspect (as appropriate in the jurisdiction), information on the progress of the investigation, information on the criminal justice process, and information on the rights of the victim at the scene of the crime; later in the criminal process, information on detention of the suspect, bail and bond, measures to assure reparation, the protection of evidence for forensic examination, information on medical assistance at the forensic examination and information on the prevention of further victimization.

In addition, victim support programmes should seek, where possible, to provide the following support during the investigation:

Emotional support: support in connection with notification of death;

Direct Assistance: clean-up of the crime scene, establishment of a process of identification of the offender in which the victim avoids direct confrontation, medical assistance at all forensic examinations and assistance in the preparation of information on victim intimidation;

Information: information on alternative courses of redress or remedies and identification of lead governmental agencies involved in investigation procedures.

5. Support during prosecution and trial

Victim support programmes should seek to provide at least the following support during prosecution and trial:

Emotional support: personal support through hearings, interviews, testifying and trial;

Direct Assistance: coordination of victim appearances at hearings, interviews and trial with the goal of minimizing the number of appearances, providing or reimbursing transportation or arranging, where applicable, for parking, assistance with restitution, assistance with victim participation in the criminal justice process (including implementation of all rights for presenting victim-related information at critical stages in the decision-making), provision of safe places for victims separate from the accused and defence witnesses when they are attending hearings or interviews;

Information: information on victim rights, the responsibilities of criminal justice personnel and the relevant sanctions if these responsibilities are not met; information on the progress of the prosecution and trial, including any proposals for plea agreements, diversion programmes or restorative community justice processes; information on what is expected of victims in the criminal justice process at each stage of the criminal justice proceedings.

In addition, victim support programmes should seek, where possible, to provide the following support during prosecution and trial:

Emotional support: referrals for trauma counselling; facilitation of group support when multiple victims are involved;

Direct Assistance: reimbursement for time away from work when required to testify, provision of appropriate clothing for victims, arrangements for child care at the courthouse for victims or appropriate arrangements for child care outside the courthouse and ensuring that restitution, in principle, is requested in all cases;

Information: information on the right of the victim to request publication of sentence.

6. Support after case disposition

Victim support programmes should seek to provide at least the following support after case disposition:

Emotional support: supportive counselling during any appellate process;

Direct assistance: enforcement of restitution orders, assistance with participation at proceedings for the revocation of probation, or for parole, clemency or pardon hearings, where applicable;

Information: information on the rights of the victim in the aftermath of case disposition on first contact after disposition and information on the offender's status or release following case disposition.

In addition, and when the victim requests or consents to this, victim support programmes should seek, where possible, to arrange for victim-offender services, such as victim-offender dialogue and mediation, victim education classes and victim impact panels.

7. Training of allied professionals

Victim support programmes should seek to establish multidisciplinary task forces for the promotion of interdisciplinary approaches to victim assistance and to sponsor interdisciplinary training programmes on victim issues, at least for police personnel and prosecutors.

In addition, victim support programmes should seek, where possible, to identify all other professional groups working directly with victims in the jurisdiction and to design and implement preparatory educational programmes on victim issues for students of those

professions, as well as training and education for active professionals. Such groups may include judges, correctional personnel, representatives of the media, school and university teachers and counsellors, medical and hospital personnel, mental health providers, coroners and funeral directors, clergy, members of human rights commissions and ombudsmen

8. Public Education Services

Victim support programmes should seek to develop and implement a public education plan.

In addition, victim support programmes should seek, where possible, to work with the media to promote widespread public awareness of victim issues. They should also develop and disseminate standards of acceptable practice (a code of ethics) to protect victims from sensationalism and publicity, which are likely to compound their victimization.

9. Prevention services

Experience shows that for many, if not most, forms of crime, the best predictor of future victimization is past victimization; repeat victims account for a substantial proportion of the caseloads for police and victim service agencies. Therefore, victim assistance programmes should seek to integrate crime prevention programmes as part of victim assistance strategies to prevent revictimization.

In addition, victim support programmes should seek, where possible, to establish a victimization prevention committee with public and private agencies and informal organizations to coordinate a comprehensive strategy of victimization prevention (both on the individual and the institutional level) and to integrate victimization prevention information into media campaigns and Curricula at all Educational levels. Data gathered from victims and about the circumstances should be used to tailor crime prevention programmes more accurately.

10. Establishing standards of good practice and codes of ethics

In order to maintain a high level of service in the victim support programme, written standards should be developed for individuals working with victims, as well as for individuals in their work with colleagues and allied professionals. Uniformity of standards is particularly important when providing services in international settings where persons and organizations from different countries come together as a single team cooperating within the same code of ethics.

C. Crisis response, counselling and advocacy

Goals:

- (1) To assist victims in coping with crisis immediately after victimization.
- (2) To assist victims in coping with the ongoing crisis and the social response to victimization by using structured or traditional models or a combination of different models.

Objectives: Crisis intervention should seek to ensure the safety and security of victims. At the same time, it should provide an opportunity for the victims to “ventilate” or tell their stories of what happened and their reactions to the incident, to be reassured of the validity of their reactions and to prepare themselves for dealing with the aftermath of the incident.

1. Safety and security

The first concern of any crisis intervener should be for the physical safety of the victim. Until it is clear that the victim is not in physical danger or in need of emergency medical aid, other issues should be put aside. This is not always immediately obvious. Victims who are in physical shock may be unaware of the injuries they have already sustained or the dangers they still face.

A parallel concern should be whether the victim feels safe. The victim may not feel safe in the following circumstances:

- (a) The victim can see or hear the assailant being interviewed by police;
- (b) The victim is being interviewed in the same area where an attack took place;
- (c) The victim is not given time to replace torn or lost clothing;
- (d) The victim is hungry, cold and uncomfortable;
- (e) The assailant has not been apprehended and has threatened to return;
- (f) The perpetrator is known to the victim; or

(g) The victim’s family or friends or witnesses are threatened. Any of these situations may make the victim feel unsafe even if there are police officers or security personnel present.

A priority for some victims and survivors is the safety of others as well. If a couple has been robbed in a street crime, each may be more worried for the other person than for himself or herself. Parents are often more concerned about the safety of their children than they are about their own safety.

Survivors of victims of homicide may, instead of focusing on safety, seek a sense of security through privacy and nurturing. Their anguish and grief can be made more painful if there are unfamiliar and unwanted witnesses to their sorrow.

They, too, will suffer feelings of helplessness and powerlessness. The shock of the arbitrary death of a loved one is usually not immediately assimilated and survivors may not understand questions or directives addressed to them.

All victims and survivors need to know that their reactions, comments and pain will be kept confidential. If confidentiality is limited by law or policy, these limits should be clearly explained.

Security is also promoted when victims and survivors are given opportunities to regain control of events. They cannot undo the crime or the death of loved ones, but there may be opportunities for them to take charge of things that will happen in the immediate aftermath.

Suggestions for making sure that victims/survivors feel safe and secure include sitting down to talk; asking the victims or survivors where they would feel safest when you talk to them and moving to that location; if the victim feels safe, providing reassurance; identifying yourself and your agency, and explaining your standards of confidentiality; and, if possible, keeping the media away from victims or survivors or helping them respond to media questions.

If they have loved ones about whom they are concerned, try to find out as much information as possible about the safety of their loved ones.

If victims seem confused or disoriented and are to be interviewed by police officers or others, try to make sure they understand the questions they are asked by having them repeat the question back to the interviewer.

It is important that the crisis intervener respond to the victim's need for nurturing, while being wary of becoming a "rescuer" on whom the victim becomes dependent. Victims should be given the opportunity to make their own choices and be involved in all relevant decision-making, where possible. The "rescuer" who ends up months later making decisions for the victim has subverted the primary goal of crisis intervention, that is, to help the victim restore control over his or her life. A crisis intervener can step in on a temporary basis by initially taking care of practical things that need to be done but are temporarily beyond the victim's capabilities, such as providing child care, help with transportation, making telephone calls, making funeral arrangements and the like.

While it is important to assist survivors with practical tasks, it is also important to allow them the primary role in planning their future. The crisis intervener can initially offer survivors a sense of control by asking them simple questions involving choices that are easily made, for instance, "What name would you like me to use in speaking with you?" or "Where would you like to sit while we talk?". Often the recovery of a physical object that is important to the survivor helps him or her to re-establish a sense of mastery over circumstances that have seemingly spun out of control.

Interveners must also recognize the risk that victims may face in doing specific tasks. Powerful flashbacks and grieving can dangerously distract a victim's attention from driving, walking or cycling near traffic or even cooking.

2. Ventilation and validation

To many victims, the victimization experience is an unexpected event that disrupts their life and the victims may be overwhelmed by their apparent loss of control. They may also be concerned that their immediate reactions—whether fear, rage, panic or other feelings—are unusual. They may fear retribution for having reported the incident (in particular, in the case of abuse of power and organized crime). Crisis intervention is designed to help victims organize their thoughts and to reassure them that whatever they feel is appropriate, that any and all of their reactions are natural and valid. Victims should be assured that the incident was condemned by society and that the victimized person is still a valued member of society.

Depending on the culture, this ventilation and validation stage provides victims with an opportunity to express their feelings and their experiences, and to relate their "story", whether to the individual victim support worker or, as appropriate, to a group. In some cultures, such open discussion has proved helpful, while in other cultures individuals may hesitate to speak openly. In some cultures and for some individuals, it may prove preferable to arrange time for silent introspection in order to help victims regain their usual state of mind. In others, alternative methods of expression may be used, such as dance, storytelling, metaphors, music, psychodrama and so forth.

While the process of allowing survivors to “tell their story” may seem to be a simple concept, the process is not easy. Victims may need to tell their story over and over again. The repetitive process is a way of putting the pieces together and cognitively organizing the event so that it can be integrated into their lives. The first memory of the event is likely to be narrowly focused on a particular sensory perception or a particular activity that occurred during the event, such as an assailant’s knife, or their struggle to get away.

As time goes by, memory will reveal other parts of the event. These bits of memory will come back in dreams, intrusive thoughts and simply in the storytelling process. The victimization story will probably change over time as they learn new things and use the information to reorganize their memories.

From a police perspective, the problem with this process of reconstructing a story is that it sometimes results in inconsistent or contradictory accounts, which undermine an investigation or prosecution. However, from a crisis intervention perspective, it is perfectly normal for the process of ventilation to reveal a more complete story over time.

Ventilation is a process of finding words or other ways that will give expression to experiences and reactions. In this respect, ventilation is often culturally specific. The power found in putting words to feelings and facts is tremendous. There is often deep emotion in telling another person that a loved one has died, even in saying the name of the loved one. The exact words to describe events and experiences are often very important, for example, calling drunken driving crimes “crashes” instead of accidents.

Validation is a process through which the crisis intervener makes it clear that most reactions to horrific events are “normal”. The focus of validation should be that most reactions of anger, fear, frustration, guilt, shame and grief do not mean that the victim is abnormal, immoral or a bad person. They merely reflect a pattern of human distress in reaction to a unique criminal attack.

While most reactions are normal, there are some people with pre-existing mental health problems who have harmful reactions. There are also some who react to personal disasters in a way dangerous to themselves or to others. In the aftermath of crisis, the intervener should always be alert to any words or other signs of suicidal thoughts or threatening behaviour towards specific individuals. If these arise, victim service workers should provide and/or seek immediate professional help and referrals.

3. Prediction and preparation

A further purpose of crisis intervention is to assist the victim in predicting what problems may emerge in the aftermath of the victimization and to prepare him or her to deal with these. Where the victimization was the result of an ongoing relationship, the victim should be assisted in conflict management.

This prediction and preparation are designed to help victims in regaining a sense of control by letting them know some of the universal reactions that may arise as a result of victimization and what may happen in their interaction with the criminal justice system. Victims should also be assisted in understanding the reality of the situation and preparing for the many practical questions that arise.

One of the most potent needs that many victims have is for information about the crime and what will happen next in their lives. Their lives have typically been thrown into chaos and they feel out of control. A way to regain control is to know what has happened and what will happen—when, where and how.

The information that can be most important to victims is practical information, such as: Will the victim have to relocate?

Does the victim have adequate financial resources to meet any immediate needs caused by the crime?

What legal issues confront the victim?

What do the criminal and civil justice systems hold in store?

What immediate medical concerns face the victim?

What will be expected of the survivors of a homicide victim (for example, body identification, funeral arrangements)?

What does the victim need to know about the media, especially in high-profile cases?

The second priority for information is to alert victims of the possibility that emotional reactions may return in one day or in six months, thus emphasizing that there is no particular timetable for determining when victims can expect to experience reactions to crisis or which of the intense emotions may surface. Some of the possible emotional concerns that should be outlined include immediate physical and mental reactions to crisis, long-term physical and mental effects, and reactions from significant others.

Victims should expect that every day events may trigger crisis reactions similar to the ones they suffered when the crime occurred.

In addition to needing adequate and predictable information, victims need assistance in preparing for ways in which they can deal with the likely practical and emotional future.

4. Protocols for crisis intervention

Most crisis intervention techniques rely upon the principles outlined above. However, there are two prominent protocols used by interveners to accomplish the goal of crisis intervention. In both, the intervener attempts to provide victims with a safe and secure environment for the discussion of what happened and how the victims are reacting. In both, the intervener will also provide victims with initial reassurance in their current situation. Common phrases used to reassure victims include “I am sorry this happened to you”, “It isn’t your fault that it happened”, “You’re safe with me now” and “I am interested in hearing your story of what happened”. The protocols differ in how the interveners help victims to describe what happened.

The first protocol is based on the critical incident stress debriefing model. Using this technique, the intervener facilitates the process by asking victims to remember the facts of the story. This allows the victims to objectify the event and perhaps gain some perspective on it. Intervenors may help victims to remember facts if they have an understanding of what happened as well. But it is important to allow victims to tell their story in their own way. After victims have reviewed the facts, they are asked to describe what they thought about during the crime or when they discovered what happened. A third question by the facilitator focuses on how victims reacted to the incident: what were their feelings or responses?

Since the victims will have had a chance to think through what happened, their emotions may be less frightening to them when they try to explain those reactions this time. After victims have had the opportunity to describe their emotions, they are then asked to describe what stress symptoms they have experienced. The facilitator in this process may help to explain acute stress reactions and post-traumatic stress reactions, educating the victim about the incident and its potential consequences. The final step of crisis intervention is to help victims think through ways of coping with their concerns.

The second protocol is based on a chronological approach to describing the crime and on identifying sensory perceptions that took place during the event. The intervener facilitates the discussion with victims by asking them to think back to the time when the crime happened or when they discovered that it happened and to try to remember where they were, who they were with and what they remember seeing, hearing, smelling, tasting or touching at that moment of discovery. Victims are then asked to remember what they did in response. These questions provide victims with a way of focusing on the event which takes into account their physical as well as mental reactions. It allows them to describe what they

perceived, even if that may not be an actual account of what happened. This set of questions is followed by a series of questions that assists victims in developing an understanding of what has happened since the crime. The intervener might ask, “Can you tell me what has happened in the last day or two since the crime?”, “Can you tell me what you have done in the last day or two and how you have reacted to news reports of the event?” or “Can you tell me how your family has reacted to this crime?”

A final set of questions is used to help victims begin to think of the future, their concerns and their possible reactions. The intervener may ask, “As you look forward to the next two weeks, what are some of the problems you think that you will face?”. This set of questions and the answers of victims establish a framework for the intervener to facilitate problem-solving with the victims.

Either protocol or adaptations of such protocols are useful to victims as they try to organize and understand the crime and its aftermath. Interveners using either protocol should be reassuring in dealing with victims and let them know that their reactions and perceptions are common in traumatic situations.

A number of modifications of crisis intervention techniques have been developed that address specific crime situations:

Crisis defusing, intervention in extended trauma situations, retrospective crisis intervention, repetitive crisis intervention and crisis intervention techniques addressing unique attributes of certain populations.

(a) ***Crisis defusing***

At times, crisis interveners may work with individual victims or groups of victims when there is no time to address all of their concerns or to hear their complete story. The primary need is to allow them an opportunity to have some emotional relief and to let them know that additional assistance will be available as soon as possible. Crisis defusing are usually conducted immediately after a criminal attack. They are intentionally short in length, lasting between 30 and 45 minutes, since victims may have competing demands on their time. Because of the time limit involved in defusing, they do not address all the elements of crisis intervention. Their focus is on immediate issues of safety and security, primary trauma reactions and thoughts on immediate survival. Victims should be reassured that the crisis interveners will talk with them again when there is more time to hear the full story of their victimization.

(b) ***Crisis intervention in extended trauma situations***

In prolonged crisis situations when crisis interveners are involved in the midst of an extended event such as war, ongoing abuse of power or continuing intense criminal activity, the questions used to focus on victims’ reactions and to prepare them for a future with reduced trauma will be different from standard ones. Sample questions include:

Can you remember and describe what life was like before this began?

What event made you realize that you were a victim of this activity?

Since this has begun, can you describe the most significant example of its impact on your life and where you were when it happened, who you were with and what you remember doing in response to it?

What kind of life do you expect should this end tomorrow?

What kind of life do you dream of having when this is over?

It is important that interveners explore both the expectations of the victims as well as their dreams in order to help them think about their lives in terms of hope and a long-range future. It is interesting in this regard that some aboriginal communities connect their current

activities not only with their past as well as the next generation but with how their activities will affect seven generations of their peoples in the future.

(c) ***Retrospective crisis intervention***

The concept of retrospective crisis intervention developed out of several factors. First, many individuals who survive a violent criminal attack face ongoing traumatic events connected to the crime. Such events include the response of the criminal justice system, media scrutiny of the crime, the “anniversary” of the event the deaths of key persons in the event or the occurrence of a similar event. These separable events often cause the victim to relive the original trauma and there is a need for some victims to process the crisis reactions once again. Second, because knowledge of the impact of crisis and appropriate responses has only recently been developed, some victims bear the scars of crimes committed in the past and request assistance now to deal with the old pain. Third, some victims do not request immediate assistance or are not provided with the opportunity for crisis intervention but realizes six months or a year later that assistance might have been useful.

Retrospective crisis intervention may be used months or years after criminal victimization. Because of the nature of the extended memories that are elicited, it may take hours of time. In most cases, safety and security are no longer issues, so the group focuses on ventilation, validation and integration of the trauma experience. The crisis reaction, long-term stress reactions and community-oriented coping strategies are addressed as well as concerns about inter-generational transfer of trauma. It is likely that survivors will respond to facilitated questions about the tragedy by telling their story from beginning to end without need for prompting. In most cases, they will have begun to extrapolate the story framework or they will have completed it as part of their unconscious or conscious integration of the story into their lives.

(d) ***Repetitive crisis intervention***

The process of repetitive crisis intervention is employed when individuals perceive themselves as being under siege as a result of the general level of crime or the extended impact of one crime or several crime incidents, such as serial murders or a rash of arsons. It is particularly useful when the offender is as yet unapprehended or unidentified, because it can be used to help individuals and community members cope with continuing feelings of fear and dread. It can also be helpful when communities are awaiting the delayed identification of victims who have died, or information updates after abduction.

The process is predicated on the fact that a number of discussions will be held. These may be set up in advance on a regular schedule—weekly or biweekly. The length of the first session, which is used to orient victims to the goals of the sessions as well as the logistics of future sessions, may be much longer than succeeding ones.

All the elements of the crisis reaction and long-term stress reactions are covered in the first session with particular emphasis on safety and security concerns. In follow-up sessions, the focus is on one or two dominant crisis reactions each time the participants identify them. Since the crime’s impact is continuing, the participants describe high-significance incidents that have occurred during the ongoing experience. Short-term coping strategies are reviewed.

(e) ***Crisis intervention techniques addressing unique attributes of certain populations***

All of the above group crisis intervention techniques can be tailored to unique population groups. In working with children, sketches, puppetry, art or play may be used to assist them in telling their stories and as methods for validation. Crisis interveners working with the elderly may incorporate special visual or auditory aids. They should also be aware that many older people integrate long-term memories into the interpretation of current trauma.

Some cultural groups do not rely upon verbalization for storytelling or validation but may use song and music, dance or physical activity. In some cultures, the protocols outlined above would be modified to avoid the use of questions. Reciprocal storytelling may be a more appropriate method of encouraging communication. Victims who speak languages different from those providing crisis interventions may require facilitation through translators or creative non-verbal expression. Victims with developmental or severe physical disabilities may require alternative forms of communication as well. The perception and interpretation of trauma, manifestations of traumatic reactions and coping strategies must take into account differences in cultural backgrounds.

5. Counselling and advocacy

While most victim service providers do not provide mental health therapy, those who deal with victims in crisis should be prepared to either refer victims for additional counselling and advocacy or to provide these themselves. It has become ever more apparent over the last two decades that while the majority of victims and survivors cope quite well, with a little assistance at the time of the crisis, some require additional counselling support for a variety of reasons.

First, when victims are involved with the criminal justice system, there is often a need for continuing crisis intervention or supportive counselling during the process. Not only do post-charging activities and pre-trial issues become a source of annoyance and concern, but the trial itself may trigger stress reactions, and after the trial is over victims may again be traumatized by the verdict, the sentence or the way the sentence is administered.

Secondly, if there is no arrest, victims may need some continuing support over time because of their perception that the criminal justice system has failed to do its job.

Third, there may be events which occur during victims' lives that trigger additional crisis reactions many months or years after the crime. The anniversary date of the crime may be an annual distressing event for some. They may need to talk to a counsellor only once each year, but that type of ongoing emotional support is needed. Others may find that they are doing reasonably well until another disaster befalls them or another major event, such as a marriage, a divorce, the birth of a child or the death of a loved one causes them to relive the original crime.

Finally, some victims simply take longer to begin to cope with their victimization and to reconstruct a new life. This fact carries no judgmental connotations of "good" or "bad"; it is a reflection of the reality that every person brings to their victimization different coping repertoires and thus develops a unique pathway and time-frame for healing.

Victim service providers have also recognized that good victim counselling involves good victim advocacy. While the functions of a counsellor may be perceived as providing emotional reassurance for a victim, victims continue to report that such reassurance is of negligible benefit if their practical needs go unmet. No matter how well-meaning a counsellor is in saying,

"You're safe now", this has little meaning to a victim if she is still living in the same apartment where she was burglarized and raped and she cannot afford to move or to put locks on the doors and windows. Even if she does change the locks, she now knows she is not truly safe in the world. The perception of her world has changed and she has learned, sadly, that bars and locks do not necessarily keep out intruders.

It may be that the victim assistance provider can do nothing to alleviate the continuing stresses of such a victim, but one part of the effort should be to help change the circumstances that are adding to the distress. In the example above, this may mean exploring with the victim her interest in moving from her apartment, and that in turn may draw the service provider into

a talk with the landlord over cancelling the lease or locating a different apartment, in other words, performing the job of an informal advocate.

Some victims may find it relatively easy to navigate the halls of justice to get compensation to which they are entitled, to have a voice in the criminal justice system, to work with creditors to pay overdue bills in the aftermath of a theft, to work with employers to get time off to be a witness in a court case, or even simply to find out where their courtroom is located.

Most, however, view the process as having to “fight the system”—a system that seeks to preserve the status quo—and grow weary of the battles that must be won in order to be treated with dignity and compassion. An advocate serves a needed role in encouraging victims to be advocates for themselves, but, in addition, provides them with another voice when they become too weary to speak.

In view of the importance of the roles of victim counsellors and victim advocates, this chapter will outline the basic skills and knowledge that counsellors and advocates need in order to do their jobs well.

6. Post-victimization counselling

Post-victimization counselling occurs after the initial crisis reaction has subsided and the victim perceives a need for additional emotional support. The counselling may be provided by mental health specialists, but is often performed by trained lay victim counsellors.

(a) *Post-victimization counselling should be “trauma-specific”*

This means that the counselling should only address the crime that happened and any consequences or issues that arise in the aftermath of that crime. Keeping the counselling relationship focused on the crime helps ensure that the victim, with support, confronts the crisis reaction he or she experienced and begins the process of reconstructing his or her life. Focused counselling reduces the scope for long-term denial and repression that keeps the healing process from progressing.

This is not to say that pre-existing crises should be ignored. Rather, once the trauma-specific support has been initiated, the counsellor will be better able to assist the victim in resolving previous crime-related crises. For example, a rape victim should be provided emotional support to help cope with her current situation. But it is not unusual that when the immediate crisis situation has been alleviated somewhat, the counsellor will hear from the victim that she has been raped before. These past traumas may need to be explored and resolved in the context of the current sexual assault. This is particularly true in abuse of power circumstances where there may have been many traumas over a period of time, all unresolved, and each contributing to the victim’s inability to function in a normal way.

Trauma-specific counselling should seek to reassure victims that they are capable of functioning and that, while the trauma itself may be painful, it is not unusual. Others often suffer similar reactions in the aftermath of tragedy. This reassurance helps not only to defuse the emotions aroused by the trauma but to help victims re-establish their connection with other people.

(b) *Post-victimization counselling should be done in partnership with victims*

The supportive counsellor should seek to establish a role as “silent” partner to victims as they work to reconstruct a new life. The counsellor is involved primarily as a listener and a responder, not as an advice-giver. The counsellor may suggest options in response to the victim’s questions, but the counsellor is not the decision maker. If the counsellor takes on a decision making role with regard to key decisions, he or she transcends the role of counsellor and becomes a problem-solver or “rescuer”, thereby putting the victim at risk of becoming

dependent rather than independent. For example, a victim may need to find new housing or shelter after the victimization. This search and the process of relocation can be extremely painful and tiring. To “spare” the victim additional pain, the counsellor may undertake to locate a new home for the victim, to help the victim pack and to transport the victim. A more useful strategy would be for the counsellor to provide guidance and support for the victim while the victim does the actual work. (There may always be exceptions, as in this example, when the victim is in immediate physical danger and such relocation is an emergency move.)

This collaborative relationship means that the counsellor must avoid becoming personally involved when developing options that victims might follow. The trauma is not the counsellor’s trauma; it is the victim’s.

(c) Normalization of crisis events and integration of the event into the victim’s life history

“Normalization” involves reassuring victims that their traumatic reactions are common and expected. This can be done by introducing victims to others who have survived similar crises. It may also be done by exposing victims to stories about survivors of other crimes and their reactions. In traditional cultures the use of parables or “teaching stories” often helps victims learn about the commonality of pain and emotional reactions. Sometimes, helping victims reflect on similar historical events and the victims involved is useful.

Often, one of the most powerful supports a counsellor can give to victims is to provide them with materials and ideas to help them integrate the experience of the crime into their life histories and to help them find meaning in that experience. Helpful questions to assist victims in reflecting on these issues include “How has this affected your understanding of your life?”, “Has it affected your perception of values?”, “How do you see your past now that this has happened?” and “How do you see your future?”.

Meaning may be found in a new relationship with God. Meaning may be found in a mission to change laws to protect and prevent future victims. It may be found in a love for humanity. It may be found in a cultural consciousness of the fatalistic nature of the world and the role of individuals in meeting their fates. But, until victims conquer the meaninglessness, the senselessness and the absurdity of a world in which human beings are so cruel to one another, they will seldom be able to heal fully after the victimization.

(d) Restoration of the victim’s routines or the construction of new ones

Every victim will find his or her own way in reconstructing a new life. Just as the trauma is experienced in a common but unique fashion, so must the restoration and construction of a new routine and equilibrium be unique yet with common elements.

For instance, it is likely that survivors of homicide victims in some cultures will want to develop some new traditions surrounding holidays to take into account the fact that their loved ones are no longer there to participate in these traditions. In other cultures, holidays often have specific traditions that include rituals acknowledging those who have died.

In many cases, rape victims need to rethink values surrounding sexual intercourse, impregnation, or a child who may have been born as a result of the rape. Both in Bosnia and Herzegovina and in Rwanda, rape victims impregnated by enemies in war have talked about the need to rethink their attitude towards their “unwanted” children. Some have aborted their pregnancies even though it might have been antithetical to their beliefs. Some have chosen to give babies up for adoption, others have learned new ways of loving and expressing love and still others have focused on how they will integrate those children into a society that might reject them.

Counsellors should be non-judgemental, supportive and open in their response to decisions made by victims. They should be helpful in exploring the options that victims face, but allow victims to make their own final choices. There are choices, such as substance

abuse, suicide or the destruction of certain relationships, that would generally be considered negative for victims as they try to restore and construct their futures. However, counsellors should be aware that cultural issues may affect the way victims look at these options. For instance, in some cultures, suicide may be considered a primary choice rather than living with the shame of the victimization. Counsellors should be aware that they should try to put aside their own values and listen with care to victims' concerns.

If victims seem to focus on "negative" choices as solutions to their problems, supportive counsellors should refer victims for appropriate mental health counselling, religious guidance or traditional healers when necessary.

7. Techniques of post-victimization counselling

(a) *Education: the victim should learn about the effects of trauma*

Written or oral materials that describe reactions in the aftermath of trauma can be valuable. Information on coping strategies for dealing with both crisis and long-term stress reactions is also useful. Positive strategies, such as cultivating a support system of family and friends, relaxation exercises or physical exercise should be stressed. Negative strategies, such as isolation, substance abuse, excessive sleep or excessive activity, should be noted so that choices may be made to avoid them.

Victims need practical education on their options in the aftermath of crime. The timing of practical information is important. In immediate crisis counselling, such information may be ignored or forgotten. After a few days and through post-victimization counselling, most information will be welcomed and the receipt of it will be useful in the reconstruction process. While much of the information listed below may be provided, in part, by a crisis intervener, the supportive counsellor should also be prepared to provide continuing education on these subjects.

(b) *Legal implications of the crime should be explored*

Some crimes may result in a criminal justice response. Most cases, however, will not be investigated, prosecuted and resolved in the criminal justice system. In some cultures, a restorative justice approach may be used through the use of sentencing circles, family conferencing, or peacemaking. For some crimes, there may be the option of civil litigation. In any case, the survivors or victims will want to know what to expect.

(c) *Physical injury victims need education on how to deal with the medical system*

What recourse do they have for medical assistance? What is the nature of "informed consent"? What are the sources of long-term financial help? Victims with physical injuries may qualify for victim compensation to help them with medical bills, lost wages and other costs.

Education concerning what to expect from the media is important especially in sensational cases. For the survivors of homicide victims, education on death and dying, and grief and loss may be critical. The dynamics of grief, the nature of emotions after loss and, for some, fears concerning death are all issues of great importance as the survivor struggles to go on.

Practical issues facing survivors are equally important. These may include education about funerals, memorial services, autopsies, cremation and interment. Counsellors can help victims or survivors master such information by doing the following:

- Storytelling;
- Providing them with articles on crisis, long-term stress, coping strategies, bereavement and similar matters;
- Encouraging them to write journals or stories about their experiences;
- Encouraging them to participate in rituals or prayers related to death;
- Encouraging them to create songs, poems or dance that reflects their grief.

(d) ***Re-establishing health habits***

Most victim assistance providers know that a healthy regime will help anyone to cope better with life's crises. Elements of good health habits include regular physical activity, good nutrition and adequate sleep. Aerobic exercise produces endorphins and uploads in the brain. This, in turn, heightens the sense of well-being and self-discipline. It gives victims an ability to control a small part of their life. If victims do not want to adopt a regular exercise programme, they should at least be encouraged to move about. Even a small dose of activity, such as taking the stairs instead of the elevator or walking the dog, can help a person to resume a level of physical functioning in the midst of depression. For many, the activity itself will relieve depression.

Good nutrition means eating foods that provide adequate fiber and essential vitamins. Vitamins B and C are particularly important in dealing with stress. The intake of large quantities of water or juices reduces stress. Victims should try to avoid large doses of caffeine, alcohol, nicotine and sugar. Counsellors should be aware that these substances are used by many victims to both stimulate activity and inhibit emotional responses. Victims may be reluctant to give them up, but they should be made aware of their long-term negative effects.

Regular sleep and rest also alleviate stress, but excessive sleep may be a symptom of depression and avoidance behaviour.

(e) ***Constructing supportive social networks***

Counsellors should try to help victims or survivors to overcome their sense of isolation and estrangement from the world through some form of social integration.

One factor in reconstructing social integration may be a reconnection with family members. In reviewing this option with victims, counsellors should be alive to the fact that some families are not sympathetic to victims. In some societies, families may be the primary source of blame or shame since victimization is perceived as the victim's fault. However, in most cases, if the family or certain family members are supportive of the victim, this can be the central focus of social reintegration.

Another factor in developing social integration is the potential for support in the workplace or at school. Workplace support can be as important as family support. Many spend more time with fellow employees or students than in the family circle. But pre-existing tensions at the workplace may exacerbate the trauma and the demands of the workplace may also mean that trauma is repressed and normal work is emphasized.

An option for the counsellor in generating social support is to offer victims an opportunity to participate in peer support groups. These provide people in similar circumstances with a chance to describe their experiences in the emotional aftermath of crime, and with effective coping strategies. The focus in such groups is on the acknowledgement of grief and trauma and on support for efforts to reconstruct a new life.

(f) ***Revisiting the crisis event***

The essence of supportive counselling is to help victims to learn to cope through awareness, acceptance and understanding of their reactions. Victims or survivors may not be able to define those reactions so that the supportive counsellor can provide options or words that help to describe the sensations.

Helping the victim to revisit the crime or criminal event through memory or physical activity is a part of supportive counselling. While the counsellor should not attempt to cause such revisitation without more extensive training, the victim is likely to revisit the event as a matter of need or choice. There are some principles counsellors should know about the process of revisitation:

- The involuntary, intrusive, mental re-experiencing of the crime, followed by diverting thoughts or distressing emotional responses, may indicate that not all aspects of the crime are remembered;
- Initial avoidance of thoughts or experiences relating to the crime may be beneficial by allowing the mind and body to gradually absorb the intense impact of the event;
- Continuation of thought avoidance over time is usually counter-productive;
- Revisitation of the place or the remembered event may cause an individual to feel victimized once again and exacerbate the traumatic reaction;
- The technique is most likely to be helpful when the re-exposure is voluntary and the victim or survivor is in control of the process;
- When the trauma is intense, it seems most useful if the process of revisitation takes place gradually or in phases;
- Even in its most benign form, re-exposure to the crime may cause some distress and discomfort.

Successful post-victimization counselling methods for helping victims revisit their experience include the following:

- Telling the story of the crime;
- Re-enacting the crime;
- Watching videotapes or movies about similar crimes;
- Listening to others tells of their experience about the same or similar events, especially what they did to recover;
- Exploring aspects of their own behaviour prior to and during the event that they may wish to modify in any future situations as a preventive strategy.

(g) Developing the crisis story

Effective post-victimization counsellors rely upon simple but important skills. They should be able to listen carefully, reassuring victims but not interrupting their flow of thought. They should be trained in crisis intervention techniques so that they can respond to the occasions when victims re-experience the sensations of the crisis reaction. They should not probe for more information from victims but let them tell their stories as they feel they can and in the order they want. They should reassure victims that if the process of recounting the crisis story becomes too painful at any time, they are free to stop talking about it and come back to it later.

(h) The spiritual connection

Many victims indicate that their reason for living in the aftermath of great tragedy is their connection to the spiritual world. Counsellors should be prepared to support victims in their spiritual quest. This may involve pursuing religious explanations or thoughts. It may involve participation in ritual or prayer. Often post-victimization counsellors find it useful to work in concert with religious or spiritual leaders, who may be understanding of a victim's spiritual frame of reference. Counsellors should be aware that some victimizations cause persons to feel betrayed by their God. Consequently, rejecting religion may cause estrangement from clergy and loved ones.

8. Advocacy techniques

The idea that advocacy should be used in conjunction with post-victimization counselling is based on three factors. First, the "second victimization" experienced in the aftermath of a crime may force victims or their advocates to fight back. Second, the search for meaning in life is inextricably connected for some with trying to change things so that the tragedy cannot be repeated in the future. Third, activism is often an antidote to depression

and a constructive way of expressing emotion. These three factors prompt some experts to recommend advocacy and activism by victims themselves, as a part of post-trauma therapy.

(a) ***Individual case advocacy***

Most victim service providers are involved in individual case advocacy. The advocate works with an individual or a group of clients with common problems. Advocacy work usually involves direct, defined and tangible confrontation with another individual or agency because of behaviours, attitudes, values, traditions, regulations or laws that are perceived as unfair, unjust or harmful.

The advocate's purpose is to represent the victim's legitimate interests and, when the occasion requires, to help the victim to influence and change behaviours, attitudes, values, traditions or laws, all of which may have been displayed in one mistaken decision—through specific actions that apply to this one specific case. The normal focus is on behaviours, attitudes, values or policies, although litigation is an example of legal case advocacy that may be used to change laws. The resulting action may be explicitly restricted to one case—to reverse one questionable decision—with no effect on other cases. Or the resulting action can be used as a precedent in the next conflict. Or it may, in fact, be a part of system advocacy.

(b) ***System advocacy***

Advocates who focus on seeking change in order to prevent something from happening in the future are system advocates (although some can and do seek these reforms by obtaining redress for a class of people who have suffered past wrongs). System advocates usually work in groups, for instance in victim activist groups.

System advocates work on behalf of classes of individuals or society as a whole. Many system advocates seek changes in the system after an actual conflict and prior to the repetition of a similar conflict. For instance, victim advocates in many countries work towards the adoption of legislation aimed at improving the rights of victims in the criminal justice system. The adoption by the General Assembly of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power was largely due to the work of victim advocates who felt that such a declaration could serve as a catalyst for improving the lot of victims throughout the world.

The purpose of system advocacy is to change attitudes, values, traditions or laws in harmony with the just interests of those concerned. System advocates may use a variety of methods to accomplish such changes, including training, education, legislative change and litigation. For instance, advocates for changing judges' attitudes have spurred efforts by the State Justice Institute of the United States and the United States Department of Justice, among others, to sponsor specialized training on victim rights and services for the judiciary.

System advocacy usually merges with case advocacy after the general change has occurred. Once a law has been passed, it is left to the case advocate to ensure application of the law to a specific victim.

D. Victim participation in the justice process

Goal: To ensure that all victims have access to the justice system as well as support throughout the justice process and that the justice system is designed to minimize the obstacles that victims may face in seeking justice.

All victims should have access to the justice system, including customary justice, traditional proceedings, juvenile proceedings, administrative and civil proceedings, and international tribunals. Victims should be supported in their efforts to participate in the justice system through direct and indirect means; timely notification of critical events and decisions, provision in full of information on the procedures and processes involved; support of the presence of victims at critical events; and assistance when there are opportunities to be heard. The structure of the justice system should take into account the obstacles which many victims encounter in seeking such access, owing to factors such as culture, race, language, resources, education, age or citizenship.

Where the criminal justice system is rudimentary or has collapsed in the wake of internal conflict, appropriate assistance may be required to establish or rebuild it. Developing countries, even if lacking material resources, can draw on their customary justice mechanisms and indigenous approaches in developing a viable system. Countries in transition to democracy face an important challenge in reinforcing the rule of law, drawing on relevant features and experiences of different systems. The role of victims in the criminal justice process can be enhanced by such a comparative perspective, which indeed can benefit all countries, even the most developed, that are turning to “restorative justice”, long the mainstay of traditional African and other indigenous systems.

In many jurisdictions, the needs, concerns and rights of victims have not received the attention that they deserve. There is an urgent need to provide more effective remedies and protective mechanisms for victims to enable them to gain access to, and participate effectively in, the justice system. This includes sensitization of practitioners to the specific needs and concerns of victims.

The present chapter considers the general framework for victim participation in the justice system. More specific suggestions for the interaction between the victim and the various parts of justice systems are dealt with in chapter III, sections A-D, on the responsibilities of police, prosecutors, legal counsels and other victim advocates, the judiciary and professionals responsible for the enforcement of sanctions.

Many of these issues relate to the avoidance of “secondary victimization”, which is the harm that may be caused to a victim by the investigation and prosecution of the case or by the details of the case being publicized in the media.

1. Treatment of victims with respect and recognition

When a victim reports an offence or other victimizing event, say, to the police or public prosecutors, this starts a process that is intended to ascertain whether or not the report of the victim is valid and, if so, to identify the victimizer and bring him or her to justice. The process can be a long and difficult one and from the legal point of view the victim is only a putative or alleged victim.

This should not prevent all who come into contact with victims from treating them with the respect and recognition that all persons deserve. The professional police officer, prosecutor or judge should recall that what to them may be one case out of many is often of central importance to the victim. Granting the victim basic human respect and dignity can

yield many benefits. It reassures the victim that the community condemns victimization in general and is interested in being told that justice is done. This is basic to the victim's recovery. At the same time, treating victims in a respectful manner often contributes to their greater willingness to assist in the investigation and judicial process.

There are a number of ways in which the justice system can demonstrate its recognition of, and respect for, the victim. One example is in the scheduling of cases. In practice, decisions on such matters as the arrangements for police questioning, the dates of court hearings and the granting of continuances are often made in accordance with system priorities and administrative convenience. In such cases, less attention may be paid to the practical effect of such decisions on the victim, for example, to difficulties in arranging for time off work, the care of children and transportation to and from the police station or courthouse.

Another example concerns the restoration of the victim's property. In many cases the property of the victims, such as stolen property or soiled clothing, is kept by the police for presentation as evidence. However, the evidentiary needs could often be met by taking photographs of the evidence or by preparing sworn statements by the investigating officer. Also, other measures could be taken to ensure that property is restored to the owner as soon as possible. This right has been specified in law in some jurisdictions. For example, the statutory requirement in Turkey is that whenever an investigation is completed, or even earlier in case of need, any objects unlawfully taken from the victim, placed in safekeeping or confiscated shall automatically be returned to the victim unless a party to the proceedings objects.

A third example is victim notification. Notification entails criminal justice authorities' keeping victims informed of the developments in their case. Research indicates that victims who are thus kept informed by authorities are more likely to judge the justice procedure as fair and to feel that they were treated by authorities with dignity and respect.

2. Protection from harm

In addition to recognition of and respect for victims, there is the further consideration of the protection of their safety and privacy. The suspect, or others acting on behalf of the suspect, may seek to intimidate the victim in order to prevent him or her from seeking justice, or may harass the victim in retaliation for having reported the matter to the authorities. This is a particular danger when the victim and the offender are in a close personal relationship, for example, as members of the same family or working in the same place of employment. Special provision should be made to protect particularly vulnerable victims. For example, in Austria in cases of domestic violence, the police can issue an order requiring that the suspect stay away from the home for up to two weeks. In several other jurisdictions, a similar order may be issued by the court.

At police stations and courthouses, the victim could be protected by providing, where possible, separate waiting facilities, so that he or she does not come into contact unnecessarily with the suspect or with family members of the suspect. In several countries, such as Brazil, Chile and India, police stations staffed only by women police officers have been established to deal with cases involving women and child victims.

During the hearing the risk of intimidation may be at its greatest. Many jurisdictions have adopted laws and practices seeking to minimize this risk. For example, several jurisdictions allow the taking of evidence with video or closed-circuit television; this is commonly done in the case of child victims of abuse. In the Netherlands, a victim of rape may be heard by the investigating judge in private and does not subsequently have to testify in the public hearing. In Israel, statements given to a youth investigator by a victim of a sex

offence under the age of 14 are admissible as evidence if the youth investigator determines that testifying may be harmful to the child.

Secondary victimization also arises when details of the case are reported in the media. Several jurisdictions have sought to protect victim privacy and confidentiality by restricting reporting. In Canada, Israel, the Netherlands and the United Kingdom, publication of details that may lead to the identification of a rape victim is prohibited. In South Australia, the addresses of victims and witnesses are not included in the depositions made available to the accused before or at committal proceedings. Victims are not required to state their addresses when being sworn as witnesses in court. In Mexico, there are special locations for victims to report sexual crimes so that confidentiality and privacy can be maintained.

3. Victim involvement in decision-making

According to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

“The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by: ... (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system”.

Throughout this *Handbook*, “victim” should be understood in the wide sense used in the Declaration, encompassing, for example, the next of kin in appropriate cases and the legal guardians of minors.

(a) The debate over victim involvement

The possibility that the victim may be involved in decision-making regarding the case has aroused considerable discussion in many jurisdictions. Although the importance and justice of full victim participation in traditional proceedings and in mediation, reconciliation and civil proceedings are widely recognized, the position in many jurisdictions is different as regards criminal proceedings. In these jurisdictions, criminal proceedings are conducted by the State against the defendant and the intervention of the victim in such proceedings would be regarded as inequitable for a number of reasons.

For example, it is argued that victim participation introduces a random element into proceedings where uniformity and equality in consideration and sentencing constitute a fundamental principle: if victims are allowed to present claims or to address the court, it is asserted that only some victims would do so and that the defendants in these cases may be subjected to harsher punishment. Victim involvement may also complicate proceedings, since the addition of one more participant (who is generally a lay person) requires additional logistical organization and time.

It has also been argued that participation, specifically in the form of the victim impact statement, occurs too late in the criminal justice process. Victims want to be treated with consideration and respect for their views throughout the criminal justice process and not just at the time of sentencing.

Finally, some research indicates that victim participation places an unwanted burden on the victims themselves, beyond that of serving only as a witness for the prosecution. In particular, placing the victim in a decision-making role may lead to even greater harassment and intimidation by the defendant and may otherwise cause the victim anxiety. It is in this light that one can understand why, following the introduction in some jurisdictions of mechanisms designed to give victims a more active role in the process, a considerable number of victims have chosen not to exercise such a right.

An important factor in the debate on victim involvement is the variation among justice systems. For example, in some systems, the right to prosecute is vested in society as a whole. In such systems, the active involvement of the victim in the criminal justice system is seen to be in conflict with the basic principles underlying the justice systems. In some other systems, however, victims have traditionally played quite an active role in criminal proceedings, and this is regarded as a self-evident corollary of the fact that the offence had been directed against the victim. In these systems, victims generally have the possibility to sue the perpetrator or become a party in the criminal procedure. These jurisdictions argue that combining civil and criminal proceedings has not complicated the system but has instead resulted in procedural economy. While some victims may be more punitive or persuasive than others, this is not generally the case; furthermore, the actual decisions continued to be made by professionals in the criminal justice system that recognized the importance of uniformity and equality. Finally, it may be true that some victims may be harassed and intimidated, but the same is true also in systems where victims serve solely as witnesses and not more actively in the proceedings.

When the Declaration was adopted, the reservations some jurisdictions had against direct victim involvement were noted. It was pointed out that the formulation of the paragraph in question envisages different options in “allowing the views and concerns of victims to be presented and considered”. First, there is no explicit reference to any active role on the part of the victim; the “views and concerns of victims” could, for example, be presented by the prosecutor. Second, there are many ways in which the views and concerns of victims can be “presented and considered” without their physical presence or even, indeed, representation. Third, the subparagraph refers only to “appropriate” stages, leaving it to the individual jurisdiction to decide what such stages are. Finally, the paragraph notes that this responsiveness should be “consistent with the relevant national criminal justice system”.

There is an important distinction between active and passive involvement in decision-making. An example of active participation is the victim impact statement; and an example of passive participation is victim notification. The criticisms presented above refer to active participation, whereas passive participation in the form of victim notification sends a message to the victim that he or she has not been forgotten by the justice authorities. It indicates respect and recognition of the position of the victim and his or her interest in the case. At the same time, because the victim is simply informed of the developments and is not directly given decision-making power, it does not introduce yet another injustice into the criminal justice process.

(b) Informing victims of their rights and responsibilities

As noted, different jurisdictions have taken different approaches in allowing for the presentation and consideration of the views and concerns of the victims. Regardless of what approaches have been adopted, their success depends on the extent to which the victims can be informed about their rights and responsibilities. A number of jurisdictions have sought to publicize such information, for example in the form of books, as in the case of France’s first *Guide des droits des victimes* (Guide to Victims’ Rights), published in 1982, or brochures outlining the criminal justice system as well as the rights and duties of the victim.

Other jurisdictions have sought to ensure the provision of information by designating particular police officers, prosecutors and court staff members as responsible for victim issues in general and for matters relating to particular victims. This has been done, for example, in Australia, Canada, the Netherlands and the United States. In France and the United States and in several Canadian provinces, on the basis of an agreement with the judicial authorities, the victim services generally have an office in connection with individual courts.

Several jurisdictions provide for cost-free proceedings, on the basis of which indigent parties to the proceedings, which in these jurisdictions include the victim, may receive the benefit of legal counsel paid by the State. In India, for example, the terms of reference of the Legal Aid Boards have been widened to include assistance to indigent victims. Denmark, Norway and Sweden, in addition to their national system of legal assistance, provide the services of state-paid “support persons” to victims of, for example, sexual assault. Such persons can provide practical, emotional and legal support, in addition to seeking to promote the involvement of the victim in decision-making, where appropriate.

(c) ***Informing the victim of developments in the case***

Victim involvement in decision-making also requires that victims be kept aware of developments in the case, in particular on decisions taken. Some jurisdictions encourage the police officer investigating the case to ask the victim if he or she wishes to be kept informed of the progress of the case; if so, a notation is made in the file for the attention of the prosecutor. As long as the case is being dealt with by the police, this agency should be responsible for informing the victim of the progress of the case. This responsibility is passed on to the prosecutor along with the file of the case. In some jurisdictions, in the case of serious crimes (such as rape and homicide), the prosecutor must invite the victim or the family of the victim for a personal discussion, during which the decisions to be made are explained.

Research on victim notification indicates that victims who are kept informed by authorities feel that they had an opportunity to express their wishes, that their wishes were taken into consideration by the authorities and that they had some degree of influence over the outcome of the case.

(d) ***The victim as witness***

The victim is generally in the best position to provide the investigating authorities, the prosecutor and the court with information on various aspects of the incident. It is thus self-evident that one of the most important roles of the victim is as a witness. In such a capacity, he or she merely responds to questions put forward by the authorities or, once the case comes to trial and depending on the jurisdiction, by the prosecutor or the defence counsel. If the victim is treated in a respectful manner, this form of involvement may well be sufficient. Research shows that victims treated well are more willing to cooperate and make better witnesses.

(e) ***Consideration of civil claims in criminal procedure***

Many civil law systems recognize the right of the victim to join criminal proceedings as a civil complainant (*partie civile* proceedings, “adhesion” proceedings or similar models). This has been justified on a number of grounds, including the principle of procedural economy and facilitation of the consideration of the civil claim. It has also been opposed by some on the grounds that the consideration of civil claims unnecessarily complicates and delays the criminal proceedings. For example, the extent of the loss may not yet be clear at the time of the criminal proceedings. Consequently, several jurisdictions place various restrictions on the civil claim and allow the court at its discretion to separate the civil from the criminal proceedings.

The extent to which the civil complainant can participate in the proceedings in different legal systems may vary. In France, for example, the *partie civile*, who may be represented by a lawyer (paid by the State if the victim is unable to do so), may comment on the personal impact of the offence, thus providing the victim an effective opportunity for expression within the criminal procedure.

(f) ***The victim as prosecutor or subsidiary prosecutor***

More contentious form of victim involvement is as a prosecutor. Many jurisdictions prefer to leave the prosecution of cases to trained prosecutors. Other jurisdictions, however, recognize that allowing the victim to participate in the prosecution gives the victim an opportunity to express his or her concerns and views throughout the proceedings.

The right of the victim to participate with full prosecutorial rights in the criminal proceedings is recognized by only a few legal systems and even here, in practice, victims usually leave most prosecutorial duties to the public prosecutor.

A number of legal systems recognize the right of the victim to serve in effect as a “subsidiary prosecutor”, in that the victim may also submit evidence; suggest questions which may be asked of the defendant or of witnesses and comment on statements and evidence submitted to the court. The term “subsidiary prosecutor” has also been used to denote a system where the victim can prosecute, with all powers of prosecution, in the event that the public prosecutor decides not to bring charges. In the latter case, where the defendant is acquitted, the victim must often bear the costs of the proceedings.

Finally, in a number of legal systems, the victim may prosecute for certain minor offences (so-called “private prosecution”), where the public interest is deemed not to require public prosecution.

(g) ***Victim impact statements***

In an increasing number of jurisdictions where the victim does not have the right to prosecute, the victim is allowed to provide information through a victim impact statement or victim statement of opinion. This option is used, for example, in Canada, Israel, New Zealand, the United States and parts of Australia and Ireland. The information is generally provided to the judge prior to sentencing.

In most jurisdictions that allow victim impact statements, the victim fills out (often with the assistance of the prosecutor or another authority) a form in which he or she indicates what impact the offence has had, what property was lost or damaged, what other financial losses resulted and how the event has disrupted his or her life. It thus provides the victim with an opportunity to inform the court of how the offence has affected him or her physically, mentally or otherwise. In other jurisdictions, victims are given the right to allocution, the right to deliver in person a statement on the impact that the offence has had on them.

A victim statement of opinion, in turn, provides the victim with an opportunity not only to relate what impact the offence has had on the victim but also what, in the victim’s view, should be done about the matter. However, it may be noted that in several jurisdictions caution has been expressed against allowing victim impact statements to lead to unwarranted increases in sentences. In such jurisdictions, it has been noted that increased punishments are not necessarily in the interest of victims.

Both the victim impact statement and the victim statement of opinion are relatively recent innovations, and the research results are mixed. Some research results have been used to argue that this mechanism offers victims a false hope of participation and that their views have little actual effect on decision-making. In general, however, the results suggest that victim impact statements and victim statements of opinion offer victims an opportunity to participate directly and that the information provided to the court can assist in achieving a more just solution.

(h) ***The victim and a review of decisions taken***

Implicit in access to justice is the provision of a means for obtaining a review of a decision taken. Such a review may be carried out by the original decision maker or by his or

her administrative or judicial superior. In the latter case, the superior may amend the decision or direct the original decision maker to reconsider it.

For example, in the important decision of whether or not to prosecute, where the prosecutor may decide (if permitted to do so by the legal system) that there is no public interest in proceeding against a suspect or that there is insufficient evidence to do so, jurisdictions have varying means of redress available to the victim. The victim may request that a superior of the prosecutor review the decision or that the court do so (in Germany, the victim may petition first a superior of the prosecutor and then, should this not lead to the desired result, may turn directly to the court). In some jurisdictions, the victim may also appeal directly to the court. In France, if the court decides on the motion of the victim that the case should be heard, the prosecutor is obliged to take over the prosecution. Victims in Mexico have a constitutional right to appeal the decision if the prosecutor decides not to prosecute the case. In Israel, the victim has a right to appeal a decision not to investigate or not to prosecute. The appeal is to the Attorney-General or to the State Attorney.

(i) *Abuse of power*

Victims of abuse of power face added problems in that it is sometimes difficult to persuade state agencies that an offence has occurred and that the case should be pursued through the criminal justice system. Many countries have set up specialized reporting or prosecuting agencies for such offences with specially trained staff. It is important that victims be aware of the existence of these agencies and that the agencies themselves use national and local media to inform the public of their existence. Other instances of abuse of power can be problematic for justice systems because they involve transnational elements and jurisdictional problems. Victims may find it difficult to persuade prosecuting authorities or the police in one country to act. These problems are international and require international solutions promoted by Governments and by international associations and agencies.

The fundamental problem in some forms of abuse of power, however, is that the offence is committed by an agent of the State and that the police or justice officials are unwilling to have the offence reported to them or to act upon it. The victim is not treated as a victim and is not able to participate in the justice system or obtain the services that he or she may need. The needs of victims of abuse of power—for reassurance, support and financial redress—are the same as those of victims of similar crimes that are not also abuses of power.

Agencies concerned with abuse of power have concentrated their efforts on persuading the relevant state authorities that instances of it should be treated as the crimes they usually are and be formally and officially clarified and accounted for by means of effective and impartial investigations. Some agencies use publicity as their main weapon for making officials, the public and the international community aware of the problem. Publicity can encourage witnesses to come forward and make victims feel that they are not isolated and forgotten.

In some circumstances, the principal need is to ensure that victims who are detained by authorities are not forgotten. Visits are crucial in order to determine where people may be held and under what conditions. Victims of abuse of power may also need money, clothing, food and other material goods, and have no means of obtaining them. These needs may be met through unofficial groups or international associations.

Effective action on behalf of victims of abuse of power will thus involve a variety of organizations and groups. Local groups have immediate knowledge and access to support victims, whereas national and international associations may have greater resources and access to more senior figures. It is important for communication networks to be developed among these organizations.

As an example of what can be done in this respect, in South Africa, the Promotion of National Unity and Reconciliation Act of 1995 affords victims an opportunity to relate violations they have suffered and provides for measures aimed at the granting of reparation and restoration of the human dignity of victims of abuse of power.

4. Victim involvement in enforcement of the sentence

(a) *Involvement in sessions for the education of offenders on the impact of victimization*

Educational programmes in correctional institutions that involve both offenders and victims can have many benefits. The purpose of such programmes is to help offenders understand the devastating impact of their crimes on victims and their families and friends, on their communities, and on themselves and their own families. For victims, participation in programmes with offenders is useful because, while they cannot undo the harm they have suffered, they may prevent others from being victimized.

(b) *Participation in parole hearings*

In some countries, victims provide input about the impact of crime at parole (and sometimes parole violation) hearings in person, via audiotape or videotape, by teleconferencing or in writing. Their statements give the paroling authority crucial information about the crime's financial, physical and emotional impact on the victim. To make this meaningful, however, paroling authorities must notify victims and their families of hearings in advance and schedule time during the hearing to allow them to describe the impact of the crime on their lives.

E. Victim involvement in Mediation and Restorative Justice

Goal: *To illustrate the concepts of mediation and restorative justice and the potential benefits of reparations for victims, offenders and communities.*

1. Victim involvement in mediation, conflict resolution and traditional proceedings

For some forms of victimization, and in particular where the victim and the offender have an existing social relationship, the avoidance of the possible stigmatizing effect of criminal prosecution or at least of a formal sentence may have benefits for both the victim and the offender. In particular, the use of informal procedures has been considered by many to provide a number of benefits over formal procedures. In informal procedures, the two parties immediately concerned can generally take an active part in deciding on the appropriate outcome; all underlying circumstances can be considered; and social pressure can often be exerted on the offender to comply with the decision and provide restitution. However, critics of the use of informal proceedings (including mediation, arbitration, conciliation and applied therapeutic techniques) have noted some potential dangers, such as the exercise of undue pressure on one or both parties.

Many countries, in particular in Africa and Asia, have long made use of non-court dispute resolution mechanisms, including mediation and arbitration.

Several western European countries, South Australia and some North American jurisdictions have demonstrated considerable interest in mediation and conciliation programmes and several experimental programmes have been implemented.

Mediation programmes bring the offender and the victim together in face-to-face meetings to negotiate a restitution settlement. The objective is to alleviate the social situation that has been disturbed by the offender. The whole mediation procedure is different from traditional criminal proceedings: a mediation session is arranged only with the consent of both victim and offender. During a reconciliation session the participants can bring up the

social conflict that might be the cause of the delinquent act. This approach attempts to address the economic as well as psychological injuries in such a way that the offender is able to comprehend the full impact that the crime has had upon the victim. The advantages of mediation are: (a) the victim is not treated as a mere witness but has the opportunity to digest what has happened to him by expressing his shock and bewilderment; and (b) the offender is made to reflect upon the injustice he has done and to accept responsibility by engaging in constructive actions. This might have a high rehabilitation value. The offender is also less stigmatized as a result. The victim obtains financial and emotional restitution quickly and in an informal way. There is also greater community involvement in the solution of conflicts, which is supposed to have a positive impact on deterrence. In short, the event is no longer only handled according to the logic of the criminal code but according to the needs and interests of the parties involved (victim, offender and community). Mediation takes place in the presence of a trained mediator, on a date set by agreement and the session starts with an explanation of procedure.

There is some concern about whether restorative justice approaches such as mediation give sufficient attention to the interests of the victim. For example, although it is the victim who has suffered from the offence, most projects do not take the victim as the starting point for the mediation process. Instead, they start by asking the offender if he or she is willing to participate in the mediation process and they only approach the victim after the offender has conceded. This approach means that the victim may feel pressured into participating in the mediation process. For example, the victim may be reluctant to refuse because of the responsibility of thereby appearing to cause the offender to receive a heavier sentence. In addition, projects are often directed at particular groups of offenders, such as juveniles. This approach categorically excludes large numbers of victims from participating in restorative justice projects. If one were to take the victim as the focal point for mediation, the distinction between juvenile and adult offenders would be superfluous. Clearly, for mediation to be successful there must be a balance between the interests of the victim and of the offender.

In France in 1993 and in Germany in 1994, following assessment of these experimental programmes, victim offender mediation has been fully recognized in criminal procedure. In France, the prosecutor is entitled to arrange for mediation prior to the decision whether or not to prosecute. The mediation is directed to the compensation of the victim and the rehabilitation of the offender. In Austria, too, special attention is paid to mediation as a diversionary measure whereby, through an early staying of the proceedings, all the advantages of mediation can fully develop. What these examples all have in common is that mediation is carried out within or at least in close proximity to, the criminal justice system because the decision to instigate a mediation procedure outside criminal proceedings always lies with the authorities.

2. Restorative justice

Restorative justice is a new term for an old concept. Throughout the history of humankind restorative justice approaches have been used in order to solve conflicts between parties and to restore peace in communities. Retributive or rehabilitative approaches to crime are, by comparison, relatively new approaches. In recent years, however, dissatisfaction with the retributive and rehabilitative approaches has given rise to a renewed interest in restorative justice.

Restorative justice represents a paradigm shift in the way justice is dispensed in criminal justice systems. The framework for restorative justice involves the offender, the victim and the entire community in efforts to create a balanced approach that is offender-directed and, at the same time, victim-centred. Victim compensation has become a key feature of restorative justice in many developed countries but could well be revived in

developing countries, where it has largely been abandoned with the introduction of alien justice systems.

The framework of restorative justice can best be described as a combined emphasis on the following programming priorities:

Restoration: Concern for providing services and support to victims, whether or not an arrest takes place, is central to restorative justice. Restoration of community and social bonds is essential to victim support as well as to prevention of future victimization. Restoration of offenders to community life is a goal predicated on offenders' acknowledgment of the harm done and their willingness to be accountable for their actions and their victims;

Accountability: Restitution, community service and victim-offender mediation create an awareness in offenders of the harmful consequences of their actions for victims, require offenders to take action to make amends to victims and to the community and, whenever possible, involve victims directly;

Community Protection: Intermediate, community-based surveillance and sanctioning systems channel the offender's time and energy into productive activities. A continuum of surveillance and sanctions provides a progression of consequences for non-compliance with supervision requirements, together with incentives that reinforce the offender's progress in meeting the objectives of competency development and accountability.

Competency Development: Work experience, active learning and service provide opportunities for offenders to develop skills interact positively in conventional society and demonstrate publicly that they are capable of productive competent behaviour.

3. Reparation through other means

(a) *Apology*

In some cultures, the admission of responsibility and an apology to the victim may help to satisfy the interests of justice and the needs of the victim.

(b) *Commemoration*

The commemoration of victims has an important moral significance. Examples are the commemorative observance of an event (such as Holocaust Day in Israel), the erection of a monument or the naming of a park or other area in commemoration of the heroism or martyrdom of a victim or victims.

(c) *Public insurance*

In many jurisdictions, victims may have access to basic social, health, mental health and other public insurance systems for many of their needs related to victimization. In some instances, the perpetrator may be insured in the same way so that the result of the direct, first-party action against the perpetrator may yield some coverage.

F. Victim Compensation and Restitution

Goal: To acknowledge and validate the losses of victims through a system of financial reparation by the State or by the offender.

1. State compensation

(a) *Purpose of state compensation programmes*

Crime victim compensation is one of the pillars of victim assistance. For many victims worldwide, it serves as the primary means of financial aid in the aftermath of victimization. While restitution laws requiring reparation to crime victims date back to the 1800s, there is one important distinction between the two sources of financial relief for crime victims: victim

compensation does not require the apprehension and conviction of the offender to provide financial relief to the victims. While the physical and psychological impact of crime may be the most obvious and serious toll taken by a crime, the financial impact can also be devastating.

(b) *Models of state compensation*

Several models of state compensation programmes exist. Although the idea of victim compensation can be traced back as far as the Babylonian civilization before 2380 B.C. and indigenous groups in Latin America and elsewhere have utilized informal community justice procedures for hundreds of years, the New Zealand scheme of 1973 is often cited as an example for other jurisdictions to follow. It provides victims of crime with the same level of awards as the victims of industrial and motor vehicle crashes. Programmes such as the one in Quebec, Canada, provide the possibility of emergency payments pending final determination of the award. Poland has established a Foundation for Assisting Victims of Crime as a special public compensation fund.

The schemes vary in their coverage. In general, compensation for victims of crime is paid principally to the victims of violent crimes. Property loss is typically not covered, with the exception of eyeglasses, hearing aids and other medical devices. If a victim's losses are covered by insurance schemes or other sources of payment, compensation from the State may be reduced or denied. Some schemes specify exclusions applicable, for example, to relatives of the offender or members of criminal organizations. Others are more liberal in their coverage and extend, for instance, to victims of domestic violence. The schemes in Finland and France also cover victims of property offences on a discretionary basis. In Quebec and in France, compensation programmes provide for emergency payments pending the final decision on the award, especially in the case of serious damages, including sexual offences or the death of the victim.

The European Forum for Victim Services has urged States to ensure that, in cases of violent crime, victims receive compensation from public funds for their injuries, emotional distress, loss of earnings and loss of maintenance as soon as possible after the crime has occurred, regardless of whether an offender has been identified. In addition, where death has occurred, compensation should be paid for bereavement, funeral expenses and loss of dependency for those most closely related to the victim.

The Council of Europe has adopted a Convention on the Compensation of Victims of Violent Crimes, which entered into force in 1988. The Convention sets minimum standards and seeks to promote international cooperation in this area. It is also open to non-members of the Council of Europe.

(c) *Eligibility requirements*

In general, victims must be innocent of criminal activity and "contributory misconduct", report the crime promptly to the police, cooperate with the criminal justice system and submit documentation of loss to the compensation programme. In most jurisdictions, conviction of the offender is not required. The victim is typically eligible for compensation in the jurisdiction in which the crime occurred. Some jurisdictions, such as Finland and France, have established the principle that victims are eligible for compensation regardless of nationality.

(d) *Outreach*

As an essential and fundamental right of all crime victims, information on the availability of benefits, on the application process and on programme requirements should be widely publicized. State compensation programmes have sought to disseminate information about their availability. However, research suggests that this is an area where further work is needed. Because many state compensation programmes impose filing deadlines, it is critically important that all persons coming into contact with victims notify them of the

possibility of compensation. Effective notification strategies and public awareness activities involve training for police, lawyers, social workers and all other relevant professionals, and public service announcements through various media such as radio, television, informational brochures, billboards and posters.

(e) Application process

While no amount of money can erase the trauma and grief suffered by victims of crime, financial assistance can be crucial in helping many through the recovery process. For some victims, these funds can help preserve the stability and dignity of their lives. To be considered for compensation, a victim or surviving family member must first file a compensation application form. Typically, victims may learn about the availability of compensation benefits and receive application forms from police, victim assistance providers, prosecutors, or medical and mental health professionals. For many crime victims, missing the application filing deadline is one of the most painful forms of “secondary victimization” in the aftermath of victimization. State programmes generally have policies on application filing periods and may not accept late filings. However, exceptions are made for crimes involving child sexual abuse and other situations based upon a finding of “just cause”. Some jurisdictions, such as the Netherlands, have extended application deadlines and may still consider applications after the deadline has passed.

The victim, or family member, is usually required to return the completed application form to the programme for consideration. After an application is received, the programme reviews the claim and verifies relevant facts such as the type of offence, the extent of victim injuries and losses and the availability of collateral resources.

(f) Claims processing and sound decision-making

The length of time required to process a victim’s application for compensation varies greatly among State compensation programmes. In some jurisdictions, this process may take several years. In others, for example in Austria, two thirds of all claims for state compensation are settled before the criminal proceedings are concluded.

Many programmes process claims through a staff centralized in a single office. In order to qualify for compensation, certain eligibility requirements must be met by the individual filing the claim. Before rendering a final determination, the compensation programme must verify victim eligibility and the compensability of victim losses. Although eligibility requirements vary greatly, the following general requirements are typical of most programmes:

- The victim must report the crime to the police within an established time-frame;
- The victim must cooperate with the police and prosecutors in the investigation and prosecution of the case. The apprehension or conviction of the perpetrator is not generally a prerequisite for receiving compensation;
- The victim must submit a timely application to the programme and provide other information as requested by the programme;
- The victim must be innocent of criminal activity or significant misconduct that caused or contributed to the victim’s injury or death.

Expeditious claim processing should be a priority for all compensation programmes. The processing time can be greatly reduced if the programme has established policies and procedures for obtaining and reviewing the necessary documentation. For example, questions appearing on application forms should be framed in clear and simple language so that the victim can provide the necessary information with the application. In addition, programmes should establish mechanisms for requesting and receiving routine verification such as police reports, medical records and explanations of insurance coverage. Standardized verification forms and letters, as well as automated systems for collecting and tracking victim data, enable programmes to promptly generate requests for information.

(g) ***Maximums and limits***

Most programmes have established a limit on the maximum benefits available to victims. In addition, many programmes have lower limits for specific expenses, such as funerals and mental health counselling. However, several jurisdictions have sought to ensure full compensation for the victims of violent crimes.

(h) ***Compensation for special categories***

Several jurisdictions have instituted State compensation programmes that cover certain categories of victims, such as victims of terrorism in France, Italy and the United States, and victims of abuse of power. China recently adopted a Law of State Compensation, which established the State's responsibility for compensating victims of abuse of power by officials.

There is a growing trend towards reparation for collective victims and victims of abuse of power. The *Wiedergutmachung* programme of the Federal Republic of Germany for victims of Nazi Germany was emulated by the former German Democratic Republic. States in central and Eastern Europe, such as Hungary, are beginning similar indemnification schemes. Elsewhere, compensation, even if only symbolic, has been part of efforts to determine the truth and ensure justice as a basis for national reconciliation (as in Argentina, Chile, El Salvador and South Africa).

Compensation has been paid in the United States to Japanese Americans interned during the Second World War, in Canada to original peoples dispossessed of their land, in Rwanda to victims of genocide and in Brazil to the next of kin of "disappeared" persons and victims of torture.

See the *1996 International Crime Victim Compensation Program Directory* for information about specific policies in countries that have compensation programmes. The *Directory* is available through the Office for Victims of Crime

Resource Center of the United States Department of Justice (telephone: + (800) 627-6872; e-mail: askncjrs@ncjrs.org).

2. Restitution by offenders to victims and to the community

(a) ***Purpose of restitution***

Restitution should be used to provide a way of offsetting some of the harm done to the victim and to provide a socially constructive way for the offender to be held accountable, while offering the greatest possible scope for rehabilitation.

Restitution is an important tool in criminal justice. It is therefore critical for victims and for the purposes of justice that effective models be developed to enable the numerous professionals involved in the judicial process to carry out their responsibilities effectively. Restitution attempts to establish a relationship between the victim and the offender in an effort to raise the offender's sense of responsibility to the victim and to society. The idea of restitution is also to advance a sense of personal accountability to the victim. Some jurisdictions utilize mediation programmes.

Restitution can be implemented in a number of ways at various points throughout the criminal justice process: as a condition of probation, as a sanction in itself or as an additional penalty. Although restitution is often imposed in a mandatory fashion, it may be entered into voluntarily by the offender as well. Restitution to the victim of a criminal injury can be effective as a punitive measure as well as a financial remedy. If used as a punishment, restitution must come from the offender's own resources (either as money or as service) and it must be part of the criminal court sentence in that it is tied to the disposition of the case.

Several jurisdictions have made special arrangements to encourage early restitution by the offender, for example, by waiving further measures should restitution be paid. In the Netherlands, the prosecutor may request that the court impose a partially suspended fine

calculated at 20 per cent more than the amount of the victim's loss. The fine is then suspended in full if restitution is paid.

(b) Assessment of victim loss

Assessment of victim loss is a complex process that can take place in a variety of ways. In some jurisdictions, the prosecutor negotiates directly with the defence counsel, after substantiating all losses with the victim. In other cases, assessments of the loss may be made solely by the probation officer as part of the pre-trial sentencing investigation. No matter how the process occurs, the victim is generally required to present receipts or other evidence to substantiate the actual losses suffered. In Canada, the Criminal Code provides that restitution can be ordered as an additional sentence to cover "readily ascertainable" losses.

(c) Presentation of restitution claims in criminal proceedings

As noted above, many jurisdictions allow for the consideration of civil claims in criminal proceedings, for example as a *partie civile* in many French-based systems or through *adhesion* proceedings in German-based systems. Such a combination of civil and criminal proceedings has several benefits for the victim and the jurisdiction, ranging from procedural economy to the fact that the responsibility for the collection of evidence and presentation of the issues lies largely with the authorities.

A criticism of this approach, however, is that in many jurisdictions it is the victim who is responsible for enforcement of the court order. If the offender does not voluntarily comply with the court order, the victim is left with a court order but no money. The victim can employ a collection agency to go after his or her money but will then have to pay the collection agency for its services. The execution of restitution orders, like fines, should be the responsibility of the justice system and not the victim. This is the case, for example, in Austria. One model would be for restitution or compensation to be paid directly from public funds to the victim, in which case the payment to be made by the offender would revert to the State.

(d) Types of restitution

Financial restitution: Financial restitution refers to payment of money by the offender to the actual victim of the crime. This is how restitution is most commonly defined, and is probably also the type most widely used.

Individual service: Individual service by the offender requires that the offender perform a service for the actual victim. Examples of this type of restitution programme might include the offender personally repairing damage done to the victim's personal property through work or the completion of other specified services. This type of restitution usually involves some form of third-party mediation and obviously requires the consent of the victim.

Financial Community Restitution: Monetary community restitution involves the payment of money by the offender to some other entity, such as a community programme. Examples of this type of restitution include such mechanisms as court orders for payment to specifically designated charities.

Community Service: Community service requires the offender to perform some beneficial community service. In this type of restitution, society serves as a symbolic victim and the practice is often referred to as "symbolic restitution".

Restitution Fines: Restitution fines differ from actual restitution in that they are imposed and collected for the purpose of depositing moneys in a state fund for victim compensation and services. Once deposited, the moneys are then used to reimburse victims for financial losses through the state compensation scheme, or to support assistance services.

In cases of victimization by economic or environmental crime, special difficulties arise from the fact that the harm is often spread over many people and may be cumulative, in both place and time. The increasing transnationalization of offences (for example, pollution and Trans border offences) has been accompanied by a growth in international litigation. The spate of

claims lodged in several countries raises jurisdictional issues that are likely to proliferate further as crimes become more international in scope. In cases where potentially noxious activities are not yet criminalized, but legal opinion holds that the innocent victim must not be left to bear the loss or injury, monetary compensation or other reparations should be due to the victim.

(e) Effective Enforcement and Supervision

Merely ordering restitution does not ensure that it will be paid. A number of jurisdictions have developed various means of promoting payment.

In England, the law provides that if the court wishes to impose both a fine and restitution (a “compensation order”), but the offender apparently lacks the means to pay both; the court shall issue a compensation order only. In Scotland, the law provides that where both a fine and a compensation order have been imposed on an offender for the same crime, or for different crimes but in the same proceedings, the enforcement of the compensation order takes precedence.

In Canada, a restitution order can be filed as civil judgments and enforced accordingly (e.g. through seizure of assets or garnishment of wages). In India, the code of criminal procedure has, since 1973, provided for the possibility that the court can order the whole or any part of the fine imposed on the offender to be paid to the victim. Owing to lack of awareness about these provisions, to the cumbersome administrative procedures required and to various other factors, these provisions had not been widely applied. Recently, however, there has been an increasing interest among courts in making use of these provisions.

In some countries, including the United Kingdom, inmates of correctional institutions perform tasks to raise money for local victim support schemes. Elsewhere, in the United States, for example, the proceeds of crime such as drug trafficking have been seized and used for rehabilitation projects or as contributions to international anti-drug initiatives. Proposals have also been made for restitutionary courts and restitution by corporate entities for damage inflicted through economic offences. *(f) Restitution as a term of probation*

When restitution is ordered as a condition of sentencing, a corrections officer has the responsibility of monitoring payments and evaluating the rehabilitative progress of the programme. In most cases where a restitution order is entered, a payment schedule is established indicating the amount of monthly payments and the length of time necessary to pay the amount in full.

3. Funding sources and mechanisms

National funding sources and mechanisms

Compensation schemes receive funding from a variety of sources. There are two primary sources: funding from fees or charges that offenders pay and funding from general-revenue appropriations from legislatures.

For example, in the United States, at the federal level, fines and penalties are levied against federal criminal offenders. These moneys are deposited into the “crime victims’ fund”, which is used to help states support their victim compensation programmes. In addition, more than 40 of the 50 states in the United States gain most of their own income from offenders. A recent trend in funding victim compensation programmes has been for states to fund their compensation programmes entirely from fines and penalty assessments. A related funding trend facing compensation programmes today is recovering restitution from convicted offenders in order to help offset the cost of providing compensation benefits to their victims. This is often described as “fund recovery measures” and involves holding offenders liable for injury to victims and making them pay for the consequences of their crimes. Some state programmes are making special efforts to seek restitution from offenders

and are working with prosecutors and judges to ensure that restitution is ordered and collected, as well as monitoring restitution payments.

The second model of funding, from general-revenue appropriations, is more common worldwide. Such a model has the advantage of not being dependent on the ability of offenders to pay fees, charges or fines. In France, an individual contribution is levied on each personal insurance policy, a mechanism that results in considerable annual funding for state compensation programmes.

G. Public education and sensitization techniques

Goal: To promote public awareness of victim issues.

1. Developing a public relations campaign

Many victim assistance programmes are involved in raising public awareness about crime victim issues and available services. Many programmes are designed to offer education about victim needs and appropriate and sensitive treatment and are targeted at officials in the criminal justice system, as well as students in schools and at other community locations, and the General public through television appearances, advertisements, and the distribution of programme literature. Time and resource must be devoted to planning and implementing a successful public relations strategy.

2. Special Events planning and Implementation

In the United States, Congress designates one week each year, usually in late April, as National Crime Victims' Rights Week. During that week, national awards are presented to outstanding victim service providers from across the country. The Week also provides an opportunity for local communities to pay tribute to crime victims. The United States Department of Justice sponsors the development of a public awareness *Resource Guide* for victim assistance programmes to use in planning National Crime Victims' Rights Week activities. Hundreds of ideas to increase public awareness of victim issues have been presented in the guide. They include sponsoring candlelight vigils, runs, rallies, memorial walls, and tree plantings; conducting forums; publishing editorials and broadcasting public service announcements; displaying posters and buttons (badges); and distributing brochures and other information in courthouses, school libraries and local retail establishments. Another example is the annual celebration of the European Victim's Day on 22 February.

3. Designing and developing communication tools

There are many different means that can be used to raise awareness of victim issues and available services. These include brochures, newsletters, Internet Web sites, posters and other programme promotions.

4. Strategies for media involvement

Many people receive their news information through television, radio and newspaper stories. In designing a media strategy, the following issues should be considered:

- Content* : What do you want to say?
- Audience* : Who are you trying to reach?
- Format* : What delivery will make your message well-received?
- Messenger* : Who will be your spokesperson?

H. Victim assistance through crime prevention

Goal: To prevent victimization and revictimization, and to promote victim restoration so that the quality of life in communities can be maintained or improved.

Victim services should meet the needs of the most vulnerable members of the population when they are victimized. This requires focusing on, for example, victimization of the elderly, child abuse and neglect, domestic violence and other crimes against women, victims of bias crimes and victims of workplace violence.

Research shows that victims of any crime are at greater risk than non-victims of subsequently being a victim of that or another type of crime. Fifty per cent of British Crime Survey respondents who were victimized were repeat victims, and they accounted for 81 per cent of all crimes reported; 5 per cent of respondents had five or more victimizations and accounted for 43 per cent of all crimes reported. Dwellings that had been burglarized once were four times more likely to be again selected for burglary than were non-burglarized dwellings. A proportion of 39 per cent of small businesses were victimized at least once in the previous year; 8 per cent of manufacturers were the victims of 63 per cent of all crimes against manufacturing establishments. In Canada, victims of robbery, assault or sexual assault were 9-20 times more likely to be revictimized by these crimes than were non-victims and were also far more likely to be victims of other crimes. In the Netherlands, 43 per cent of violent crime victims were victimized two or more times in a year, and these repeat victims accounted for 77 per cent of all violent victimizations.

In the United States, of the employees of convenience stores who were robbery victims, 50 per cent were victimized twice and 33 per cent three or more times. In one large metropolitan area, 1 per cent of the population accounted for 26 per cent of burglary victimizations over a five-year period. Cases where the victim was revictimized by the same offender typically involved violence between spouses, neighbours, acquaintances and schoolmates. About 90-95 per cent of all domestic violence incidents in the United Kingdom were repeat victimizations; in 30 per cent of these incidents, the victims had experienced six or more attacks in a 12-month period. In Canada, 20 per cent of domestic assault victims reported between two and five incidents and 15 per cent reported six or more incidents. In primary schools in the United Kingdom, 16 per cent of students reported being bullied weekly and 17 per cent reported being bullied daily.

A major psychological consequence of criminal victimization in many cases is that the victim no longer feels safe. Preventing repeat victimization can be a powerful way not only to reduce overall victimization but also to speed the victim's psychological recovery. Victim assistance programmes should therefore consider their mission as having two parts: restoring the victim to wholeness in the aftermath of the current victimization, and preventing him or her from being revictimized. The police in the United Kingdom have been active in assisting victims of property crime in preventing revictimization. Victims of residential burglary receive security upgrades, property marking, crime prevention information and the involvement of the victim's six nearest neighbours in neighborhoods watch. Based on the number of victimizations suffered in the previous year, an increasing level of police response may include focused patrol, offender targeting, priority fingerprinting and the loan of burglar alarms. Repeat victims of automobile theft receive vehicle marking, offender targeting and vehicle location devices.

Other programmes have been established to prevent repeat victimization by violent personal crime. To reduce revictimization in cases of domestic violence, the victim receives a wearable alarm linked to the police by cellular phone, police officers responding to calls receive information on prior calls and current court orders and victim service workers develop an action plan with the victim. To deal with bullying in schools, programmes include

increased supervision, confidential points of contact with the administration for use by victims and bystanders, meetings with parents, discussion groups with students and formal confrontations with the offenders. Evaluations of these various programmes indicate that they are effective in reducing repeat victimization and police concentration on those who have already been victimized is seen as a more efficient way to use police resources and to identify priorities.

Victim service workers can also assist the victim in identifying factors in his or her life and behaviour patterns that may have contributed to the victimization and that would predispose the victim to being revictimized. Special attention and sensitivity are required in dealing with those risk factors that the victim is powerless to change, such as sex, age and income. Since victims of one type of crime are at increased risk of revictimization by that as well as other types of crime, these inventories should be very broad. Recent victimizations, type of crime, relation of victim to offender and how the crime fit into the victim's pattern of daily or weekly activities should be included.

In addition to inventorying factors in the victim's life that would generally affect risks of revictimization, the discussion can also examine in detail the most recent victimization, the circumstances that led to the incident, how the incident developed and whether there are things that the victim believes that he or she could have done differently to obtain a more favourable outcome. The product of this discussion would be an assessment, in cooperation with the victim, of suggested changes in his or her life situation and behaviour patterns that could reduce the risk of revictimization. These suggested changes should be accompanied by necessary assistance in cases where the victim's abilities and resources are not adequate to carry them out. The discussion could also reveal gaps in the victim's knowledge of crime prevention; appropriate crime prevention materials and advice would be provided at this point in the discussion.

Curtailed abuse of power

From antiquity to the present day, history is replete with dramatic and diverse examples of abuses of power. Infamous reputations have been earned by some for their massive abuses. Responses to abuses have also been dramatic and diverse. Some have been lifelong crusades, with individuals becoming heroes in causes on behalf of mass suffering. Other responses have been highly organized efforts even resulting in wars between nations. International and national organizations have evolved to address major abuses and countries have formed international alliances to champion the plight of mass victimization.

In many nations, legal sanctions exist to prevent, control and punish abuse of power. In these countries, most abuses are effectively kept in check by existing laws. However, some countries have no formal sanctions against abuses of power. Consequently, multinational corporations, Governments, military agencies, medical organizations, police forces, terrorist groups, religious groups and even parents have license to use such methods as environmental pollution, price-fixing, genocide, apartheid, civilian bombing, medical experimentation, neglect, torture and brutality. Having legal sanctions is no guarantee against abuse. Many countries with laws still have significant abuses of power. The true measure of abuses of power is not only the presence of laws but also their application in practice and the actual extent of victimization.

It is generally accepted that, in magnitude, the problem of abuse of power far exceeds that of conventional crime. To date, however, no comprehensive surveys have been conducted to measure the nature and extent of abuse of power victimization. Comprehensive surveys are needed with common terms, criteria and methods to provide empirical data upon which to base new policy. If abuse of power is genuinely to be curtailed, there must be a move beyond anecdotal accounts to objective plans, policies and laws that directly thwart decisions giving rise to abuse of power.

To achieve success in eradicating abuse of power, realistic planning should not only focus attention on changing laws but also on changing social conditions and current attitudes designed to shape a covenant of human dignity and respect for human rights in accordance with the Universal Declaration of Human Rights and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

I. Care for the victim assistance professional

Goal: To provide special support and assistance to victim assistance professionals themselves, who are constantly exposed to victims' distress and may consequently suffer trauma and chronic stress, in addition to the fact that they may also become victims.

1. Education of victim assistance professionals on the stress and burn-out associated with care giving :

Many people find rewards in working with victims on a daily basis. They feel a sense of achievement when they can help victims obtain rights or compensation. Victims often express their gratitude for the support and assistance they receive. Counsellors may be inspired as they help victims transform their lives after tragedy.

Despite these rewards, working with victims can be extremely stressful. It is difficult to face the consequences of violence and victimization on a daily basis. It intensifies one's own sense of vulnerability. It is hard to deal with the emotional reactions to trauma, which may include extreme anger, sometimes directed at the caregivers themselves. There is the danger of both physical and mental exhaustion, particularly when victim service providers have to respond at any hour of the day or be on call for extended periods of time. Many voluntary workers are also challenged by the real or perceived need to use their own time and money to help sustain grass-roots programmes.

This section focuses on the stress reactions of those working with victims and how programmes or individual service providers can address them in their continuing efforts to help victims.

Background to dealing with stress reactions of caregivers

There are four useful constructs for understanding the stress reactions of caregivers: burn-out, counter-transference or vicarious victimization, belief alteration and compassion fatigue or secondary traumatic stress.

Burn-out: Burn-out is characterized as a state of emotional, mental and physical exhaustion. It is usually accompanied by physical symptoms of fatigue, sleep disruptions, headaches or stomach-aches, body aches or susceptibility to colds or other infections. Caregivers may grow distant and impersonal in their interactions with victims. Emotional and behavioural symptoms include feelings of helplessness, irritability, anxiety, depression, pessimism, cynicism, isolation and carelessness;

Counter-transference or vicarious victimization: Counter-transference occurs when a caregiver's own scars and injuries are recalled by the sights, sounds, stories or issues raised by the victims or survivors. The caregiver takes on the emotional reactions of the victims or survivors;

Belief alteration: Both burn-out and counter-transference cause caregivers to experience alterations in their belief systems, changes that have a significant impact on their feelings, relationships and life, and very much akin to those which often happen to victims and survivors. The difference for caregivers is that with repeated interventions, these alterations can become firmly established, since the interventions reconfirm the validity of the changes in their beliefs. This process seems particularly to affect caregivers who have also been directly victimized in their lives. The belief systems susceptible to change involve

perceptions of longevity, safety and security, relationships with others, self-esteem, the meaning or value of life and a sense of autonomy in one's actions or thoughts;

Compassion fatigue: Compassion fatigue is a term often used in describing secondary traumatic stress reactions in caregivers. While many of the elements of burn-out, counter-transference and belief alteration contributes to compassion fatigue, it is distinguished by three salient features. Compassion fatigue results when caregivers experience a trauma event through listening to the story of the event, experiencing the reactions to the trauma through empathetic contact with victim or survivor and being unable to distance themselves from the event. Without the ability to cognitively provide that distance, they begin to live with the trauma, re-experiencing the event as though it happened to them.

2. Effective programme strategies for dealing with the impact of victimization on victim assistance professionals

(a) Staff selection

Careful selection of staff is important for victim assistance professionals. Working directly with victims can be very stressful and draining, and requires certain skills. In some countries, applicants for victim assistance positions are given psychological tests to be sure that they will be able to handle the stress of the job.

(b) Training

Studies show that the more training people receive in their jobs, the more competent they feel and the less stress they suffer when asked to perform under extraordinary circumstances. Of particular value to people working in crisis situations is the opportunity to practice their skills continually in non-crisis environments through role-play and exercises, and to receive regular feedback on their effectiveness. Training and educational programmes that involve other agencies or programmes also offer caregivers increased opportunities to develop support networks with their colleagues.

(c) Group or individual consultations or debriefings

Many programmes have begun to recognize the value of regularly scheduled individual or group meetings with caregivers who handle victim cases. Some programmes have developed a system whereby each volunteer and staff member is assigned to a colleague for individual sessions, which are used to discuss and receive advice on how the case is being handled and also to discuss how the case is affecting the caregiver.

(d) Recognition and acknowledgments

Caregivers may suffer from stress because they receive inadequate recognition for their work and successes. Some programmes provide monthly or annual acknowledgments of exceptional staff and volunteer contributions by publishing names in programme newsletters or local media, posting pictures of outstanding caregivers, sending notes of appreciation and gratitude or holding special recognition events.

(e) Policies and guidelines for working with victims

Another source of frustration for caregivers may stem from the fact that they do not understand the limits of what they can do for victims or the appropriate levels of involvement in victims' lives. Programmes can address this issue by developing specific policies and guidelines. Depending on the jurisdiction and the parameters of the programme, illustrative guidelines might include recommended numbers of visits to a victim's home or a suggested amount of time that should be spent with a victim on the telephone or during a visit. Such guidelines should always allow for exceptions. Policies should explicitly outline the nature of victim interventions provided by the agency and should define acceptable ethical precepts for involvement in a victim's life.

(f) Annual programme goals and values assessment

Sometimes stress for caregivers derives in part from differences between the caregivers' goals and values and those of the assistance programme. A regular review and explanation of programme goals and values with staff and volunteers may help clarify any potential conflicts and assist in developing strategies for dealing with them.

(g) Team-building

Encouraging trust and respect among programme volunteers and staff can help them to rely upon each other in times of serious stress. Programmes can promote teamwork through a number of mechanisms, including cross-training, job exchanges, group activities outside the programme, team involvement in key projects and group involvement in strategic planning efforts.

(h) Management

Employers of caregivers should develop clear policies in order to prevent or limit trauma and chronic stress.

3. Strategies for individual caregivers to cope with caregiver stresses

Programmes may have sophisticated strategies for dealing with the stress of caregivers, but ultimately individuals need to be aware of their sources of stress and implement their own plans to cope with them. Common themes that appear in stress management literature for caregivers include the following:

- Maintain physical health;
- Manage time and information;
- Establish a support system of family or friends;
- Establish networks with other colleagues in victim-related work;
- Define and understand a personal system of meaning for life;
- Reach out for help from spiritual leaders, counsellors or mental health professionals, when necessary.

Chapter III**The role and responsibility of front-line professional sand others to victims**

The dignity and healing of victims depends on the respect and assistance extended to them by the professionals and others who come into contact with them. These include the police and other law enforcement personnel, prosecutors, victim advocates, legal aid providers, judges, corrections personnel, medical staff, mental health providers, elected officials, ombudsmen, spiritual leaders, civil organizations, traditional leaders, the media and others. Guidelines and standards must be developed and tailored to each locality. Codes of ethics should be developed for each sector voluntarily or legislatively and sanctions applied for more serious human rights violations.

Professionals, volunteers and others who come into contact with victims should be trained and sensitized about victim issues, crisis response, violence prevention and multidisciplinary cooperation, as outlined in chapter II, as part of their preparatory education, continuing education requirements and ongoing training seminars and conferences. For example, victim issues should be included in the curriculum and examinations of police academies, magistrate training colleges and training schools for lawyers and judges, correctional personnel and others. This chapter highlights the issues that might be addressed during such training and emphasizes the importance of following a coordinated, interdisciplinary approach to victim assistance.

Because most victims reach out primarily to informal support providers such as family, friends, neighbours and others, various approaches should be found to extend training as widely as possible in the community.

Training for professionals and others should include information regarding the special needs of victims due to the nature of the harm inflicted or factors such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, or disability.

Finally, a comprehensive community response to crime victimization should be developed in each locality. A “victim centered” approach should be taken that looks at all the victim’s needs and recommends how various individuals and/or agencies could best provide the needed service or support in a coordinated fashion.

A. Police and victim assistance

Goal: To integrate the philosophy and implementation of victim assistance into routine police policy and practices.

1. The police role in victim assistance

As a 24-hour front-line agency, the police are most likely to have the first contact with victims of crime and abuse of power. The first interaction between the police and the victim is crucial to how the victim copes and recovers. Training for police officers in victim issues should emphasize awareness and empathy for victims and their needs. Treating victims in a more sensitive and sympathetic manner inevitably helps the police to do their job better by ensuring that more information is provided and that the victim is more willing and better able to become involved as a witness within the judicial system.

Historically, police have not been provided with adequate training regarding the impact of violent crime on victims and methods of ensuring that victims are informed of their rights and referred to essential services. As a result, undertrained police have often been insufficiently sensitive when coming into contact with emotionally distraught victims, which has impaired victim satisfaction and undermined the confidence of victims and their willingness to participate in the criminal justice process.

In many jurisdictions, progress has recently been made in improving police responses to victims. This is extremely important given that in the great majority of crimes no perpetrator is ever apprehended. Thus, in many cases the only hope for victim assistance from the criminal justice system is at the police level.

For example, in a number of countries, including Australia, Canada, France, the United Kingdom and the United States, attention has been given to the first point of contact of the criminal justice system with the victim, and to the concept of “psychological first aid”, according to which the victim is to be treated as a human being, not merely as a possible source of evidence. Assurance should be given to the victim that what has occurred is condemned by society and that the community sympathizes with the victim. The process consists in the responding police officer’s reassuring the victim that he or she is safe now, that the officer is sorry that this happened to the victim and, when applicable, that what occurred was not the victim’s fault.

2. The specific roles and responsibilities of the police to victims

Police-based services provide essential assistance to victims. These include on-site crisis intervention and the securing of emergency medical assistance. In addition, police should provide victims with information regarding their rights and with referrals to services and resources that can help the victim to heal. Essential services should include but are not limited to:

- Explaining police procedures and investigatory process;
- Informing victims about how to protect evidence;
- Accompanying victims to emergency medical services in cases involving injury;
- Informing victims of the possibility of pregnancy or infection with diseases as a result of a crime;
- Providing information to crime victims about their rights, as well as the availability of crime victim's compensation;

Immediately referring victims, verbally and in writing, to community agencies that offer emergency services to victims, together with information about financial assistance (for example, a brochure should be developed in different languages and given to victims that includes information about emergency and long-term services,

Victim compensation, likely reactions to crime victimization and information about the investigative process);

Ensuring that the victim is personally contacted by telephone or in person 24 to 48 hours following the initial response in order to see whether assistance has been sought and/or received;

- Ensuring that the property of the victim is secured so that personal safety is not compromised as a result of crime;
- Establishing procedures to ensure that victims of violent crime are periodically informed of the status of investigations;
- Promptly providing crisis intervention and psychological first aid or referring to appropriate services;
- Contacting a victim service professional to provide on-site assistance;
- Establishing and enforcing strict property return protocol and procedures: this should be a standardized, jurisdiction-wide programme (closely coordinated with prosecutors' offices and the courts) designed to eliminate potential confusion about exactly which property return rights and procedures are enforced by different law enforcement agencies;
- Establishing protocols for proper detention and investigation of suspects in order to protect the safety of victims.

Peer review systems can be used for the sensitization of the police. In Utrecht in the Netherlands, for example, a peer review system has been established in which, after the victim has been questioned by a police detective, a second detective inquires of the victim how he or she was dealt with by the first detective. The responses are used as a basis for further training.

In Japan, a number of questionnaires regarding the treatment of citizens by police are carried out by both the National Police Agency and some prefectural police forces, and these are used as a means of improving the police treatment of civilians.

Essentially, police-based services, when adequately staffed and funded, can provide critical assistance and information to victims as they progress through the criminal justice system. Each law enforcement agency at every level should assign a staff member to serve as a liaison to crime victims and victim services. The designation of a victim-witness coordinator will enhance all roles and responsibilities described above and will help improve and streamline the delivery of services to victims and the assurance of their rights.

Police agencies should also consider ways of involving non-governmental and victims' groups in developing guidelines and monitoring adherence to police protocols and procedures.

In addition, victim assistance for police personnel and their family members is essential. Police officers are exposed to human misery on a daily basis. They must have mechanisms in place to cope with their own job-related stress so that they can effectively interact with victims. Employee assistance programmes, including peer and professional counselling, should be made available to all police officers and their families. The same services should be made available to all soldiers performing policing actions in war-torn areas where they come into contact with victims of abuse of power.

3. Training of police personnel

The following two general outcomes should be achieved in the training of police on victim issues:

An understanding of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;

The ability to apply the main principles of the law and departmental policy to the treatment of victims of crime;

An understanding of the Geneva Convention; and

The ability to apply these international policies to refugees, prisoners of war and victims of abuse of power.

It is critical that each officer understand the definition of “victim” and is able to articulate and apply, subject to local legislation and conditions, requirements under the Declaration. (See also the policy statement of the International Association of Chiefs of Police on victim assistance, reproduced below.) Police should also be able, where appropriate, to articulate and explain departmental policy in relation to:

- The definition of a victim;
- The treatment of victims;
- Access to victim services;
- Information for victims about proceedings;
- Return of property;
- Death notifications;
- Withdrawal and replacement of court charges;
- Protocols for first contact persons; patrol officers; investigators; and supervisors.

Policy statement of the International Association of Chiefs of Police on victim rights, 1983

It is the incontrovertible right of all crime victims:

- i To be free from intimidation;
- ii To be told of financial assistance and social services available and how to apply for them;
- iii To be provided a secure area during interviews and court proceedings and to be notified if presence in court is needed;
- iv To be provided a quick return of stolen or other personal property when no longer needed as evidence;
- v To a speedy disposition of the case and to be periodically informed of case status and final disposition; and, wherever personnel and resource capabilities allow, to be notified in felony cases whenever the perpetrator is released from custody;
- vi To be interviewed by a female official in the case of rape and other sexual offences, wherever personnel and resource capabilities allow.

(a) General competency areas for police training

Police officers should be provided training in the following areas: the trauma of victimization, empathizing with victims, emotional “first aid”, how to deal with victims in practical situations, dealing with special categories of victims and using the victim impact statement, where applicable.

(b) Police training in the trauma of victimization

The key outcome of training in this area is that the police officer is able to articulate, explain and recognize the principal effects of trauma felt by victims. It is recommended that role-playing and real-life victims form part of this training.

The training should ensure that the police officer:

- Understands that being victimized has recognizable effects on the lives of victims and their immediate family and friends;
- Appreciates the costs of crime;
- Recognizes that any criminal offence, no matter how seemingly trivial, is likely to result in trauma for the victim;
- Is able to recognize the normal and acute human reactions to trauma, including common crisis reactions, both physical and emotional;
- Is able to talk confidently and constructively with victims and help them to overcome their trauma;
- Is able to recognize post-traumatic stress disorders in victims and know where to refer the victims for specialist assistance;
- Is aware of the secondary injuries to victims from the criminal justice system, the military and society;
- Is aware of the far-ranging effects of secondary victimization; Is aware of the process of crisis recovery and the importance of the police role, of sympathy, of meeting safety and security needs, of facilitating ventilation and validation and of prediction and preparation.

(c) Police training in empathizing with victims

The key outcome of training in this area is that the police officer should be able to establish a rapport and empathize with victims.

- The training should ensure that the police officer:
- Accepts the crucial role of police personnel as crisis interveners;
- Is able to set victims at ease;
- Recognizes special techniques for interviewing traumatized victims;
- Is able to build a rapport with a victim or victims;
- Develops adequate listening skills;
- Uses open and other appropriate questions;
- Uses appropriate, non-threatening body language;
- Employs non-sexist and non-discriminatory language and attitudes towards the victim;
- Is culturally sensitive towards the victim;
- Is non-judgemental of others;
- Is open-minded;
- Is able to demonstrate empathy to victims through appropriate behaviour and actions;
- Is able to interpret body language in others;
- Is able to respect the confidentiality of information given;

- Is able to remain objective and detached from the situation in which the victim finds himself or herself; C Is aware of the responsibility of the police in assisting victims with food, clothes and transportation.

(d) ***Police training in dealing with victims in practical situations***

The key outcome of training in this area is that the police officer be able to assist people in coping with being victimized by placing them in contact with appropriate support groups, giving them appropriate information and assisting them in dealing with the effects of victimization.

The training should ensure that the police officer:

- Is able to refer victims to appropriate local support groups;
- Keeps victims informed about progress in the investigation of their complaint;
- Keeps victims informed about justice processes;
- Is able to conduct a crime scene search in a manner that reduces trauma and secondary injury to the victim;
- Is able to prepare victims adequately for medical and other examinations so as to reduce the trauma and secondary injury suffered;
- Is able to provide crime prevention advice to the victim in order to help him or her avoid re-victimization;
- Is able to advise medical and other specialists how to reduce trauma when dealing with victims;
- Assists victims in coping with giving evidence in court;
- Is able to give correct and appropriate advice to victims regarding compensation schemes and insurance claims;
- Can arrange mediation, where necessary, between victim and offender.

(e) ***Police training in dealing with special categories of victims***

The key outcome of training in this area is that the police officer is able to understand the additional requirements of certain categories of victims.

The training should ensure that the police officer understands:

- The special requirements of child victims, with special sessions on child abuse and sexual abuse;
- The situation of women as victims of crime;
- The impact of crime, and fear of crime, on older persons;
- The effects of crime on people with physical and mental disabilities;
- The special requirements of members of ethnic minorities within the community, such as language and particular customs;
- The impact of crime on those with a different sexual orientation;
- The effects of repression and other abuse of power on the victim;
- The special requirements of surviving family members in homicide cases.

(f) ***Police training in the use of victim impact statements***

This section applies to those jurisdictions where victim impact statements are used and police officials have responsibility for compiling such statements in cooperation with victims. The key outcome of police training in this area is that the police officer should be able to assist victims in developing and presenting a description of the impact of the crime that is acceptable to the courts.

The training should ensure that the police officer:

Is familiar with the appropriate form and format to use;

Recognizes the need to prepare victim impact statements on all appropriate occasions;

Understands the law and departmental policy relating to victim impact statements;

Is able to interview victims to obtain all relevant information for a victim impact statement without causing victims more trauma;

- Recognizes who are appropriate persons, other than themselves, to prepare victim impact statements;
- Describes clearly and succinctly appropriate and relevant impacts, symptoms and effects of victimization on the victim impact statements;
- Is able to request reparation from court in appropriate cases.

(g) ***Police protocols***

Protocols or guidelines should be developed for key areas of interaction between the police and victims. They should be included in the appropriate training and their implementation should be supervised.

Four areas requiring protocols are: (a) the initial point of contact between the victim and the police; (b) the initial interview with the victim by the patrol officer; (c) the investigation of the offence; and (d) the role of police supervisors. (h)

Police protocol regarding the initial contact person

On most occasions the initial contact with the police will be with a police station telephone operator or dispatcher. The protocol should ensure that such persons:

- Treat all victims with sympathy;
- See to it that priority is given to their call, for example, by ensuring that the call is referred to only one location and is done so expeditiously;
- Seek to establish that the victim's safety is not compromised and that, if such a threat exists, top priority is given to securing the victim's safety;
- Avoid inconvenience to the victim, for example, by not asking the victim to come in person to a police station but arranging for a patrol to be dispatched promptly;
- Not interrogate the victim, other than to gain sufficient information for a patrol to be dispatched;
- C Ensure that the victim is kept informed of the expected time of arrival of the police, especially if delay is likely; C Provide safety information.

(i) ***Police protocol for the initial interviews by patrol officers*** The protocol should ensure that patrol officers:

- Have a calm, objective manner;
- Show an air of authority, that is, of knowing what to do;
- Express concern and understanding for what the victim is feeling;
- Before the interview, focus on the victim's concerns and extend simple courtesies;
- Encourage the victim to talk in his or her own way;
- Show a non- judgemental attitude;
- Know what he or she and his or her colleagues are doing and what the victim can expect to happen in the future; C Attempt to conduct the initial interview in private, if possible;
- Arrange appropriate victim support or specialist assistance, regardless of whether or not the complaint is likely to be sustained;
- Ensure that they make no promises that cannot be kept;
- Thank the victim for having assisted the police;
- Take steps to ensure the victim's safety;
- Explain the circumstances to a family member or friend, if necessary; C Provide crime prevention advice and assistance.

- In addition, the first police officer who arrives at the scene of a crime must ensure that other police officers assigned to the case are informed of the entire content of what he or she has heard in order to avoid the duplication of questions to victims.

(j) ***Police protocol for investigators***

The police protocol should provide that investigators ensure that:

- The victim is treated at all times with courtesy, compassion and respect for his or her dignity and privacy;
- The victim is kept informed at all times of the progress of the investigation;
- The security of the victim is secured and any fears that the victim might have are communicated to the decision maker responsible for deciding on pre-trial release;
- Victims have access to all available support services;
- Victims are informed about court proceedings, the charges laid or reasons for not laying charges, reasons for amending charges and the role of the victim in criminal justice processes (as a witness, civil complainant or subsidiary prosecutor, as appropriate in the jurisdiction);
- All practical assistance is given to the victim as a witness, including familiarization with the court and court process and assistance with attendance;
- The victim is informed of the results of prosecution;
- Crime prevention advice is provided in order to reduce the chances of re-victimization;
- The victim is aware of, and has had the opportunity to utilize, local compensation options; Property held for evidentiary purposes is returned as promptly as possible.

(k) ***Police protocol for supervisors***

The police protocol should provide that supervisors ensure that:

- All staff under their control are aware of, and comply with, the protocols for the initial contact with the police, soldiers, patrol officers and investigators;
- Staff undergo regular ongoing in-service training on victims issues;
- Local policy guidelines are in place to cover all aspects of police/military treatment of victims of crime and abuse of power.

4. Examples of interdisciplinary approaches used to enhance police response

In some jurisdictions, an interdisciplinary or team response to victims of major offences has been used in order to improve the response of the system. For example, in some communities, a social worker and a police officer work together to respond to domestic violence cases. The advantage of this approach is that the police officer can help to reduce the violence at the scene, while the social worker can help provide counselling and needed services to prevent future violent conduct.

A team approach is also used in many jurisdictions to respond to child abuse cases. For example, in New Zealand, child abuse investigations are undertaken only by selected specially trained and experienced teams of police officers and social workers.

In Israel, sexual abuse victims under the age of 14 are interviewed by a special youth investigator who is a youth probation officer, a social worker or a psychologist, who decides whether to allow the child to testify in court, depending on the harm that may be caused to the child. If the youth investigator decides not to allow the child to testify, the child's statement is admissible as evidence and the youth investigator is a witness. If the child is allowed to testify, the youth investigator who escorts the child may decide that the child does not have to answer a specific question that may be damaging to him or her.

Some communities have established "children's advocacy centres", which provide an environment specially designed for children, in which all the relevant professionals work

together in one location to provide the services that children need. Thus, in many of these centres, police, prosecutors, social workers, therapists and physicians work alongside one another in one location. A joint interview is conducted so that each professional can receive the information that he or she needs at the same time. The main purpose of these facilities is to provide services to children in a supportive environment and to reduce the number of times that children are interviewed.

In Brazil, more than 500 specialized all-women “police stations for women’s rights” have been set up to cater to victims of domestic violence and sexual assault. The stations are staffed entirely by women, including police officers, social workers and lawyers. The objective is to treat battered women and children with sensitivity to their needs.

In Bosnia and Herzegovina, the Office of the United Nations High Commissioner for Refugees works with police personnel to provide a broad range of services: from basic needs and medical services to funds for programmes to help reintegrate and rehabilitate refugees, returning soldiers and prisoners of war, as well as direct victims of abuse of power.

In Japan, the National Police Agency has enacted a Programme for Crime Victims, where prefectural police forces compile and distribute support information to victims; notify victims of crime-related information in the most appropriate way; and, in some cases, appoint volunteers as “juvenile police assistants” to regularly visit juvenile crime victims. In addition, a special Sex Crime Investigation Guidance Section has been established at all prefectural police headquarters and in the investigation department of four regional police headquarters in Hokkaido. Specially trained female police officers are assigned to sex crime investigations. Japan has also established special police hotlines for victims of sex crimes, as well as sex crime consulting rooms in 10 prefectural police headquarters.

In Hiroshima, the Hiroshima Liaison Council for Victim Assistance was established in October 1996. The council, led by the Chief of Hiroshima Prefectural Police Headquarters, is composed of representatives from the police, the public prosecutor’s office, the association of clinical psychologists, the juvenile and women’s divisions of local government, the central child consultation centre, the public mental health centre, the welfare office, the medical association and 17 other organizations. Its aim is to exchange information, to reinforce relationships among member organizations and to advise victims of suitable referral organizations. The Council offers workshops on various topics, including sex crime, juvenile victims, traffic crashes and unfair trading, to discuss future actions aimed at tackling these types of crimes. Similar councils, with varying memberships, have been established in 17 prefectures in Japan as of 1998.

B. Prosecutors and victim assistance

Goal: To integrate the philosophy and implementation of victim assistance into routine prosecutorial policies and practices.

1. Strategies and protocols for prosecutors, legal aid providers and other victim advocates to assist victims

Once police have investigated a crime and a suspect has been arrested, cases are generally referred to prosecutors. Although each jurisdiction’s laws and procedures provide for different ways to initiate a criminal action, this is often handled through an initial court appearance or some process leading to charging and arraignment of the presumed offender. The attempt of some prosecutors to dispose of cases quickly may come into direct conflict with the needs and desires of the individual victims who want their perpetrator prosecuted to the full extent of the law. However, prosecutors should keep in mind that it is the victim who

is directly harmed by the crime. Victims have a valid interest in the prosecution of the case and should be involved at all stages of the proceedings. In addition, the prosecution will profit generally from the improved cooperation of victims who feel that they have been protected, assisted and properly informed.

Many jurisdictions have developed prosecutor-based victim assistance programmes. Although they vary in their objectives, the victim populations on whom they focus, their service delivery systems and their size and resource levels, they share a basic mission: to treat all victims and witnesses with dignity, compassion and respect, while striving to prevent secondary victimization by the system. Thus, the victim's participation in and satisfaction with the criminal justice system as a whole may be increased.

There are a number of services that can and should be provided by prosecutor-based victim assistance programmes. The most important of these are programmes to notify victims regarding the status of the case and the delays that often occur in the progress of a criminal prosecution. Victims are often distressed by the lack of progress in their cases and the need to rearrange their personal and work lives repeatedly in order to attend court hearings, which may be delayed. In addition, victims may require assistance in attending and participating in court proceedings, protection from intimidation and harm, and basic guidance regarding the criminal justice system and their role within it. Referrals to appropriate victim assistance and victim compensation programmes should be made by prosecutorial offices.

2. Specific roles and responsibilities of prosecutors in relation to victims

Although the primary role of the prosecutor is to present the case in court, many important activities rely on the involvement of victims. Although the prosecutor is not the "victim's attorney", prosecutors have opportunities to keep victims informed and involved, to provide appropriate accommodations in the pre-trial and court setting, and to follow up with information and referrals, as needed. These opportunities should include:

- Establishing policies for providing crime victims with a basic level of services, which include information, translation and notification;
- Providing information about the criminal justice system and proceedings in simple lay terms to help victims understand the criminal justice system;
- Providing notification of the status of the case at key stages of the criminal justice system;
- Coordinating, where applicable in the jurisdiction, the inclusion of victim impact information (i.e. written statements, allocutions, or audio or video statements) in court proceedings (including plea bargains, pre-sentence reports and sentencing) with probation authorities and the judiciary;
- Providing a waiting area for victims and witnesses and their families in the courthouse that is separate visually and audibly from the offender. These areas should be "child-friendly" and safe and secure, where feasible.
- Prosecutors may also establish agreements with non-governmental organizations in order to provide services such as:
- Sponsoring "witness alert" programmes, whereby victims and witnesses are able to continue with their normal daily routines on "stand-by" until they are summoned to court at short notice;
- Coordinating witness appearances, that is, scheduling witnesses, and providing witness fees, accommodation for out-of-town witnesses and assistance with transportation;
- Sponsoring victim/witness information telephone lines to provide up-to-date information after hours to subpoenaed witnesses;

- Providing educational and accompaniment programmes to familiarize victims with the courtroom and enable them to present their case in an appropriate manner;
- Offering assistance to victims in completing victim compensation applications;
- Offering information about the consequences of certain offences, such as the risk of sexually transmitted diseases and infection with the human immunodeficiency virus (HIV) in cases of sexual assault; providing information about preventive action; and making prompt and well-informed medical and mental health referrals;
- Informing victims who have suffered monetary loss about the availability of restitution as a sentencing option for the court; assistance in obtaining restitution should be provided, through verification of financial loss and provision of that information to the probation officer, judge, parole board or other appropriate personnel; C Establishing protocols for handling staff victimization.

When possible, prosecutors should continue to assist the victim after conviction of the offender. Where applicable and appropriate in the jurisdiction, the prosecutor should, with the assistance of non-governmental organizations:

- Assist with the timely delivery of victim input to institutional corrections and paroling authorities;
- Notify victims of parole dates;
- Notify the victim of an inmate's change of status within departments of corrections;
- Serve as an advocate for victims at parole hearings;
- Promote victim input to probation officers for pre-sentence investigation reports, including victim impact statements and personal interviews with victims or their family about the crime's impact;
- Provide information regarding restitution to appropriate criminal justice personnel;
- Coordinate victim/offender mediation;
- Notify victims about proceedings and decisions on the appellate level;
- Provide assistance with the collection and disbursement of restitution, including orders to show cause, hearings, modifying payment amounts or schedules, and/or converting restitution orders to civil judgements.

Prosecutor-based victim assistance programmes provide a unique opportunity for protecting, enhancing and ensuring due exercise of the rights of victims in each local jurisdiction. Even in jurisdictions that have legislation concerning the rights of victims, prosecutors and their staff have a responsibility to ensure that the rights and basic services contained in the legislation are not ignored.

3. Training for prosecutors

Training on victim issues should be provided in all law schools. In addition, in-service training should be made available to prosecutors on an ongoing basis at the community level and periodical conferences or meetings.

4. Examples of approaches to enhance the responses of prosecutors to victims

A number of countries have developed programmes and practices to enhance the responses of prosecutors to victims. For example, in 1989 Mexico established special sexual crime units in which a female social worker, medical assistant, psychologist, police officer and prosecutor form an interdisciplinary team to respond sensitively to victims of such crimes. In some cases these services are offered by a non-governmental organization.

In addition, China has set up a number of central and provincial legal aid centres, one of whose responsibilities is to provide legal assistance to victims of crime upon their request.

Under Japanese criminal law, a person who has been injured by an offence may file a complaint. Such a complainant may be questioned by the investigative authorities, and the results may, under certain conditions, be used as evidence. In deciding whether or not to proceed to public prosecution, prosecutors pay due consideration to the extent of the injury. If the complainant is not satisfied with the decision, he or she may apply for a review by the Inquest of Prosecution and, in the case of abuse of power, bring the case to court.

Experimental projects have been established in Israel in which a lawyer and social worker team (from non-governmental organizations) work together with the prosecutors to give the victims of rape or child abuse the assistance they need, thus alleviating the load on the prosecutor.

C. The role of the judiciary in justice for victims

Goal: To promote judicial recognition and acknowledgment that victims have legitimate interests who must be taken into account at all stages of the criminal justice proceedings.

The judiciary must be an impartial entity that oversees the progress of a criminal action. Judges should weigh and protect the rights of all parties involved in criminal proceedings.

Judges should provide essential protection to victims. In cases involving children, for example, special arrangements, such as allowing the victim to testify through closed-circuit television, can also be ordered, where applicable and possible. Instructions requiring defence counsel to meet the child's eye and not raise his or her voice, as well as other methods of making the courtroom less intimidating to a child, may also be ordered, where applicable and possible. Judges should also expedite trials so as not to further victimize the crime victim through additional delays during an already difficult process. In some jurisdictions, a common technique is for a defence counsel to subpoena the victim's family members as potential witnesses, request that the court order that witnesses be excluded from the courtroom and then, where possible, not call the family of the victim to testify, thereby preventing them from attending the court session. However, the defendant's family is allowed to sit in the courtroom, showing support for their family member who is on trial, while the victim's family is thus kept out. Such motions can, and should, be denied.

Judges are empowered to sentence offenders for the offences for which they have been convicted. It may be important that judges include information regarding the impact of the crime on the victim in their assessment of appropriate sentences. In some jurisdictions, the victim is a party to the proceedings and can contribute such information directly. In other jurisdictions, however, this information must be provided through a prosecutor-based victim assistance programme, a probation office or some other official source. In some of these jurisdictions, it takes the form of a special "victim impact statement". Such victim impact information is often the only comprehensive assessment of the injuries caused by the offender available to the judge. For example, the Canadian Criminal Code requires that where a victim impact statement has been prepared, the sentencing judge shall consider it.

1. Recommendations for the judiciary on victim rights

(a) *Respect and recognition for victims*

Judges have a leadership role in ensuring that victims and witnesses are treated with courtesy, respect and fairness, in order that:

- Victims and witnesses are provided with information regarding their rights and prerogatives, and such matters as the physical layout of the courthouse, witness fees, compensation funds and other available financial assistance;
- Court administrators establish reception areas and provide victims and witnesses with information about public and community services.

(b) ***Providing victims with information***

- Judges have a leadership role in ensuring that victims and witnesses are fully informed about the criminal justice proceedings, in order that:
- Victims should be able to obtain from appropriate court personnel information concerning the status of their cases;
- If requested and if possible, appropriate officials should give victims of serious crimes timely notice of the release of the defendant from pre-trial and post-trial custody.

(c) ***Special services and support***

Victims and witnesses may require special services and support, both material and psychological. Judges may, whenever possible, encourage such support by, for example, arranging for the following in their jurisdiction:

- Separate waiting areas for the defence and for witnesses for the prosecution, including victims;
- Interpreter and translator services for victims and witnesses while they are in the courthouse;
- An “on-call” system to minimize unnecessary trips to court;
- The expeditious return of evidence;
- The availability of special transportation and protection to and from the courthouse when the safety of witnesses is a consideration;
- Informing the public of the importance of supporting the participation of victims and witnesses in court proceedings;
- Child-care services for victims and witnesses;
- Crisis intervention, counselling and other support services for victims;
- Ensuring that the victim is not charged for rape examinations or other costs of collecting and preserving evidence;
- Establishing fair and appropriate witness fees.

(d) ***The ordering of restitution***

Wherever possible under the law, judges should order restitution unless there is an articulated reason for not doing so, regardless of whether the offender is incarcerated or placed on probation.

(e) ***Victim participation***

Wherever possible under the law, victims should be allowed to participate and, where appropriate, to give input through the prosecutor or to testify in all stages of judicial proceedings, including:

- Pre-trial release or bail hearings;
- The scheduling of court proceedings;
- Continuances or delays (judges should state on the record the reason for granting a continuance);
- Plea and sentence negotiations, where these are conducted;
- Sentencing;
- Victim-offender mediation, where appropriate.

(f) ***Persons accompanying victims***

To encourage victim participation victims should, wherever possible, be accompanied in the courtroom by a supportive person; victim impact statements prior to sentencing should be encouraged and considered; and victims or the victim's family should be allowed to remain in the courtroom.

(g) Protection of the victim

Judges should use their judicial authority to protect victims and witnesses from harassment, threats, intimidation and harm by:

- Limiting access to the addresses of victims and witnesses;
- Ensuring that victims and witnesses are informed that if they agree to be interviewed prior to trial by opposing counsel or investigators, they may insist that the interviews be conducted at neutral locations;
- Encouraging legislation or rules requiring parole boards to advise the judge, the prosecutor, the public and the victim, where appropriate, prior to any hearing on the release of an offender convicted of a serious offence.

(h) Protection of special categories of victims

In order to protect particularly vulnerable victims (for example, minors, victims of sexual abuse, families of homicide victims, the elderly, persons with disabilities and victims of organized crime and repression), judges should consider the following:

- The expediting of trials in cases involving particularly vulnerable victims;
- Encouraging specially designed or equipped courtrooms to protect vulnerable victims;
- Permitting the use of videotaped depositions in cases involving vulnerable victims;
- Allowing vulnerable victims to have an individual of their choice accompany them in closed juvenile proceedings, closed criminal proceedings or in camera proceedings;
- If a defendant is conducting his or her own defence, preventing the defendant from directly questioning the victim.

(i) Architecture and use of space in court buildings

Efforts should be made to create separate facilities, in particular separate waiting rooms, for victims and other witnesses for the prosecution, and for offenders and other witnesses for the defence. In new and renovated buildings, plans should allow for separate waiting rooms and toilets. This is important in preventing harassment of all kinds by one party or another. There should also be a room set aside for distressed witnesses to retire to after giving evidence. This facility will allow time for the person to recover their composure before returning to the courtroom or leaving the building. In addition, refreshment stands should be provided, as well as special facilities for children and people with disabilities.

2. Judicial education and training

Sensitivity training on victim-related issues should be a required element of courses in all judicial colleges and should be incorporated in licensing exams. In addition, judges should be encouraged to participate in ongoing training programmes dealing with the needs and legal interests of crime victims and the services available to them.

3. Examples of specific approaches to enhancing the judicial response to victims

In Canada and many other countries, laws allow for videotaped testimony for certain child victims; a support person is permitted to accompany a young or otherwise vulnerable victim/witness; personal cross-examinations are restricted; and both mandatory and discretionary publication bans exist.

In the United States, a special children's court was established in California in 1992, designed specifically to meet the needs of children going through the court process. The building's small courtrooms are less intimidating to children than traditional courtrooms. Safe, friendly and private play areas, family visiting rooms, exercise areas and conference rooms are available for children to meet with their attorneys, social workers or other care providers. Special initiatives of the court include counselling services for children and their families, training and internship programmes and a child-parent art programme.

D. Prisons and alternative sanctions

Goal: To integrate the philosophy and implementation of victim assistance into routine probation and parole policies and practices and to promote recognition and acknowledgment that victims have legitimate interests that should be considered in the correctional process.

Victims have a legitimate interest in seeking to ensure not only that those who have committed offences against them are brought to justice, but also that offenders do not present a danger to the victim or to others after release. If a prisoner is to be released, victims may want to be notified in advance. This is often because the victim may have been threatened during or after the offence or may be seen by the prisoner as the one responsible for the prisoner's incarceration. Some victims have a very deep—and very real—fear of retaliation by offenders. At the very least, victims should be given the opportunity to take precautions or to prepare themselves mentally for the release of their offenders.

1. Probation or alternative measures

In many jurisdictions around the world probation or alternative measures are used as a sentence. Examples of conditions of probation include but are not limited to:

- No contact with the victim;
- Payment of monetary obligations to the victim, such as restitution, child support, mortgage payments and so on;
- Payment of fines (which in some jurisdictions may be used directly to support law enforcement and victim services);
- No use of alcohol or other drugs (in some jurisdictions, this is tied to an agreement to undergo random testing);
- Specific treatment that addresses the probationer's criminal activities (such as sex offender treatment, alcohol or other drug counselling, anger management, etc.); or Community service.

An important condition of probation and alternative measures is that the probationer commit no new offences during his or her period of community supervision. If a probationer violates any condition of his or her sentence, the probation agency or court can rescind or revoke probation, resulting in the offender's incarceration in jail or prison.

Regarding victim involvement in decision-making and in the enforcement of probation, the roles and responsibilities of probation officials in relation to victims should include but not be limited to:

- Soliciting the opinions of victims of relevance to appropriate community service sanctions for the probationer;
- Supervising the probationer's involvement in any victim-offender programming, such as victim impact classes or panels, or victim/offender mediation or conciliation, in which victims choose to participate in on a strictly voluntary basis.

2. Prisons

In some jurisdictions, prisons or correctional institutions now have victim service programmes. The roles and responsibilities listed below are generally sponsored or implemented by such programmes.

Specific roles and responsibilities of institutional corrections to victims of crime

- The roles and responsibilities of corrections authorities in relation to victims should include but not be limited to:
- Extracting relevant victim information (including, where applicable, victim impact statements and protection orders) from court documentation for inclusion in the offender's file;
- Protecting the confidentiality of victim information through protected automated databases or "flags" on paper files that indicate that this information is not available to inmates or their counsel;
- Protecting victims and witnesses from intimidation or harassment by the inmate during their period of incarceration;
- Upon request, notifying victims of an offender's status, including but not limited to the offender's current location, classification, potential release date, escape or death.

3. Parole agencies

When inmates are released from incarceration, their reintegration into the community is typically accomplished through the parole process. Parole is the most common form of early release of prisoners, with conditions attached to that release designed to protect the safety of both the victim and the public. Parole is considered part of the prison sentence, but is served in the community. Violations of any conditions of parole can result in its revocation, which means that the offender will be returned to an institutional setting.

In some jurisdictions, victims have the statutory or constitutional right to provide parole boards with victim impact information about how the offence has affected them. Since in a number of such jurisdictions, offenders are commonly sentenced for the offences that they plead to in plea negotiations, it is imperative that parole boards know the facts of the offence that was actually committed. This important input also provides victims with an opportunity to request certain conditions of parole that make them feel safer, such as protective orders or requests that the offender be paroled to a geographical location that is at a certain distance from where the victim resides. In many places, victim impact statements are not confidential and so offenders can access the statements (with the possible exception of the victim's contact information, which may be kept confidential).

Parole agents, also called parole officers, are responsible for monitoring the supervision of parolees in many jurisdictions. In some jurisdictions, parole agents have frequent contact with victims, especially in intra-familial crimes. It is essential that victims know who their offender's parole agent is and how the agent can be reached. In some communities, automated victim notification systems have been set up where a victim is automatically notified by computer when his or her offender is released from prison or has a change in status.

In Japan, the Ministry of Justice is responsible for probation and parole administration. In the process of parole decisionmaking, a victim's situation and opinion are taken into consideration. The Ministry of Justice, which has no specific programme focusing directly on victims of crime, is now collecting information regarding relevant programmes of the direct victim services with a view to introducing them in the future on the grounds that the situation and opinion of victims is one of the essential factors affecting the methods and directions of the rehabilitation services for offenders.

4. Other victim involvement in sentencing

Victim impact panel

In some jurisdictions, victim education or impact programmes are available for offenders as part of their sentence and rehabilitation. For example, Mothers Against Drunk Driving, an active advocacy group in the United States, has long been using “victim impact panels”, where victims of drunk driving crashes educate convicted drunk drivers about the impact of drunk driving on victims. This type of education has also been used successfully with juvenile offenders in the United States. The concept behind the victim impact panel is to develop empathy in offenders by exposing them, through the stories of victims, to the pain and harm that their criminal behaviour has caused. Offenders begin to understand the human consequences of violence and may refrain from further crimes in the future. In addition, a majority of victims who have participated in the panels indicate that the panels are therapeutic and healing for them as well.

In England and Wales, the Probation Service has a responsibility for contacting victims of crime regarding the release of the prisoner who has offended against them. The purpose of this contact is: (a) to inform the victim of the fact that release is being considered and of any condition attached to that release; and (b) to hear the victim’s view about any conditions which might be imposed. This procedure applies in cases where the offender is sentenced to four or more years in prison for violent offences.

E. Schools, universities and institutes

Goal: To integrate the philosophy and implementation of victim assistance into schools, universities and other programmes for advanced learning in their policy, research and community service practices.

1. Specific role and responsibilities of schools in victim assistance

Schools and universities have a unique role to play in helping all students understand and appreciate the rights and needs of victims of crimes. School-based education about victim issues will produce citizens who are better informed and educated about the needs of crime victims in their communities.

Furthermore, crime in schools is a major problem in some jurisdictions. Many schools are forced to respond to incidents that occur on school grounds, such as shootings, kidnappings and sexual assault. How a school responds to a crisis can affect the healing of the school population, the tone of the school and the education of its students. Comprehensive school-based victim service programmes can be effective in assisting students, teachers and others who are victimized in the school setting.

School-based victim service programmes should target all educational levels and be designed to respond effectively to chronic trauma as well as violent incidents that may occur on the school premises. Victim service programmes in schools should include crisis intervention counselling as well as curricula that include courses on victim assistance, violence prevention and nonviolent conflict resolution. Programmes that include crisis intervention and stress reaction training will help students and teachers better respond to their own stresses, as well as those of others around them, both in the school setting and beyond. Victim rights and services should be integrated into school and university administrative procedures.

School officials also have a responsibility to prevent crime and ensure the safety of students and school staff. For example, when possible under the law, school authorities should check the arrest and conviction records for sexual assault, child molestation or pornography offences of anyone applying for work in a school who would be in regular proximity to students.

2. Curriculum development for schools and universities on victim assistance and victimization prevention

(a) *Curriculum development for schools*

Curricula in schools should address how to support people who have been victimized; how to intervene (call the police); services available to victims; and victim rights.

Schools should introduce issues related to family violence, child abuse and incest as early as seven or eight years of age. Core curricula for ages 12-18 should include education about specific types of crime victimization, including drunk driving, family violence and sexual assault. Victim impact classes should be utilized as an important educational method to train schoolage children.

Schools should teach courses about crime prevention strategies in every grade, beginning in elementary school. In some countries, for example Norway and other Scandinavian countries, conflict resolution sessions have been introduced in schools to discourage reliance on violence.

(b) *Curricula development for universities and professional schools*

Many professionals who deal with crime victims are never taught in school about the impact of victimization. The educational curriculum in colleges and graduate schools for doctors, nurses, social workers, psychiatrists, psychologists, police, lawyers, judges, clergy, journalists, teachers and others should include training on issues related to crime victims. The courses should be interdisciplinary and inform students about effective team approaches to handling victims and offenders. Where possible, victim issues should be incorporated into professional licensing examinations.

Graduate school libraries should access resources available on the rights of victims and related legal issues and incorporate them into their collections.

Crime victims should be invited, to the extent possible, as guest lecturers in departments that include victim-related issues. Additional community resources from victim service providers can be used to augment these presentations and to provide materials to enhance existing curricula.

Colleges and universities should require a minimum number of hours of teaching on victimology issues in departments that address criminal justice or social services.

Colleges and universities should offer specialized workshops to students and professionals for credit on issues affecting different types of crime victims, including sexual assault, elder abuse, child abuse, domestic violence, homicide and drunk driving.

School disciplinary hearings involving crimes should have procedures that provide certain rights for victims, such as the right to be accompanied by a person of their choice and the right to give a victim impact statement before a penalty is decided.

(c) *Research*

The state of the art can only be improved if knowledge is increased. Competent, objective and relevant research is needed on a continuing basis to understand the dynamics of how victims recover and how best to deliver victim services. Universities and institutes offer ideal settings for empirical and evaluative research in the area of victim assistance.

F. Health-care professionals

Goal: To integrate the philosophy and implementation of victim assistance into health-care settings.

1. Victim assistance in emergency rooms and trauma centres

Doctors, nurses and other hospital personnel provide tremendous assistance to victims of crime. In addition to police officers, medical personnel, who are often also available 24 hours a day, seven days a week, are commonly the first to come into contact with crime victims who have experienced some form of injury.

All victims of crime should be treated with dignity and respect by hospital staff (including doctors, nurses, intake workers and others). Victims are often fearful and insecure when they arrive at medical centres. Treating the patient with sensitivity—both to their physical condition and to the potential psychological impact of the victimization—can help the overall physical and psychological healing process.

In their roles, medical staff are uniquely suited to the task of carefully documenting the condition of the victim and objectively reporting these findings (much of which can be utilized as evidence in criminal cases). Of course, the immediate and appropriate treatment of the victim is paramount; however, in the course of treatment, appropriate documentation provides useful information for prosecutors and victims in taking various criminal and other legal actions against the perpetrator. Of particular importance is the use of appropriate evidentiary collection kits for gathering information in sexual assault and sexual abuse cases for later evidentiary use at trial. This needs to be done sensitively but competently, so that the trauma of the rape examination is minimized and evidence is accurately collected.

Similarly, in cases of abuses of power or armed conflict, health-care professionals from independent organizations such as the International Committee of the Red Cross or Doctors Without Borders should be sensitive to the needs of victims.

2. Protocols for medical professionals for treatment, referrals and reporting

Hospitals should establish training programmes and protocols for all hospital personnel on the rights and needs of victims of crime. The medical profession should develop a victim-sensitive code of ethics for all medical staff.

Special consideration of the needs of victims, such as food, clothing and transportation, should be taken into account in emergency rooms and trauma centres.

Programmes should involve the family in community aftercare and should educate family members about victim rights before they leave the hospital.

Hospitals and trauma centres should be a gateway to assistance for victims of crime. Medical staff should link victims to appropriate formal and informal community workers.

Medical professionals should respect the confidentiality and privacy needs of all victims, especially in cases of sexual assault and assaults on children. However, confidentiality laws should not hinder the reporting of child abuse.

Repeated interviews of victims by multiple staff members (doctors, nurses, social workers and so on) should be limited.

3. Interdisciplinary approaches in medical settings

A unique, community-based team approach to sexual assault examinations has been developed in some communities in the United States to ensure more timely and accurate collection of forensic evidence for use in prosecuting suspected rapists. All rape examinations are performed in a quiet, comfortable, private suite at a medical centre. When the victim

arrives, she is immediately examined by a specially trained nurse practitioner, rather than having to wait in a busy emergency room. A trained volunteer is available to provide emotional support to the victim throughout the examination.

Other communities have developed hospital-based “children’s advocacy centres” where state-of-the-art medical treatment and forensic documentation is complemented by an interdisciplinary approach including legal, social and mental health services to guarantee that all child patients are treated with dignity.

G. Media professionals

Goal: To improve the sensitivity of media professionals to victimization and to address issues of victimization among media professionals.

Media reporting of crime and victimization in both print and broadcast formats can have far-reaching effects on victims of crime. The media can play a significant role in public safety by keeping citizens apprised of increases and decreases in crime, trends in violence and victimization (that are specific to international, national and local audiences), efforts to prevent crime, reduce violence and assist victims (including programmes, policies and legislation) and measures that individuals and communities can take in order to promote safety.

While sensitive coverage of cases involving victims can be helpful and in some cases even healing, media coverage that is sometimes viewed as insensitive, voyeuristic and uncaring can compound the emotional and psychological suffering of victims. Most crime victims have never before dealt with the news media. They can be thrust, often unwillingly, into the limelight solely because of the crimes committed against them. The news media are often viewed as a double-edged sword in their coverage of crime and victimization as regards the dichotomy of the public’s right to know versus the victim’s right to privacy.

Written guidelines that are incorporated into a news medium’s policies, as well as initial and ongoing professional education of its employees, can provide basic principles of ethical journalistic coverage of crime and victimization.

1. Training programmes for the media

Information and guidelines for dealing with crime victims should be incorporated in the curriculum of every college or university class in communications or journalism. Information should include the trauma of victimization, the privacy rights of victims, services available to victims and how to develop a cooperative relationship with law enforcement and criminal justice officials with regard to coverage of crime and victimization.

Professional training of journalists on sensitive media coverage of crime and victimization should be included in conferences, as well as on the job in individual newsrooms. The Canadian Journalism Foundation, for instance, has sponsored several seminars on the media and the law, bringing together judges, prosecutors, policy makers and journalists to develop a better awareness about their respective duties and responsibilities to victims.

2. Victim-sensitive media code of ethics

Victim service providers should encourage media professionals, both print and broadcast, to adopt a code of ethics specific to their coverage of crime and victimization. Such a code can serve as a basic ethical foundation for making difficult decisions (frequently in very short time periods). When victim advocates consider proposing a code of ethics to media professionals, the following issues should be seriously considered.

The news media should:

- Present details about a crime in a fair, objective and balanced manner, avoiding over-dramatized news;
- Recognize the importance of publishing or broadcasting information that can contribute to public safety while, at the same time, balancing this need against the victim's need for privacy;
- Respect the privacy of individuals who choose to refrain from dealing with the media or who choose to address the media through a spokesperson of their choice;
- Provide a balanced perspective regarding a criminal act that reflects the concerns of the victim and the offender;
- Never report rumours or innuendoes about the victim, the offender or the crime unless such information has been verified by reliable sources;
- In crimes other than homicide, identify the victim by age and area where the crime occurred, omitting names, street addresses and block numbers;
- Refrain from using information gained from private conversations with victims or their relatives who are in shock or distress;
- Identify witnesses only when they volunteer to be named and when there is clearly no danger that can be provoked through their identification by the media;
- Never publish the identity of a sexual assault victim without his or her prior consent, regardless of whether the case is in the criminal or civil courts;
- Never publish the identity of a child victim;
- Never identify alleged or convicted incest offenders when such actions could lead to the identification of the victim;
- In cases of kidnapping where it is determined that the victim has been sexually assaulted, stop identifying the victim by name once a sexual assault has been alleged;
- Never, without the victim's prior consent, identify the victim of fraud or other crime that tends to humiliate or degrade the victim;
- Refrain from photographing or broadcasting images that portray personal grief or shock resulting from a criminal act;
- Never publish photographs or broadcast images that could place the subject in danger;
- Refrain from showing photographs or broadcasting images of deceased victims, body bags or seriously wounded victims;
- Never publish photographs or broadcast images of funerals without the prior consent of the surviving family members;
- Refer to drunk driving incidents as "crashes" or "crimes", not as accidents, regardless of whether or not the use of alcohol has been determined as a factor;
- Approach the coverage of all stories related to crime and victimization in a manner that is not lurid, sensational or intrusive to the victim or his or her family.

H. Mental health providers

Goal: To integrate the understanding of the trauma of victimization and its short-term and potential long-term effects, and the skills and techniques of responding to these, into the practice of mental health, health care, public health, public policy and other relevant settings.

1. Critical issues for mental health professionals

Restoring a sense of continuity

To fulfil the reparative and preventive goals of psychological recovery from trauma, perspective and integration through awareness and containment must be established so that a

sense of continuity, belonging and rootedness are restored. To be healing and even potentially self-actualizing, the integration of traumatic experiences must be examined from the perspective of the totality of the lives of the survivors of trauma and of their family members. The intergenerational aspect should also be considered: what happened in one generation will affect what happens in the next, although actual behaviour may take a variety of forms. The trauma and its impact may thus be passed down as a family legacy, even to children born after the trauma.

The systems that affect the components of identity can change and recover independently of other systems (see chapter I). For example, there may be progress in the social system but not in the religious system. While there can be isolated, independent recovery in various systems or dimensions, they may also be related and interdependent. With survivors it is especially hard to judge by outward appearances. Survivors often display external markers of success (for example, occupational achievement or establishing of families) that in truth represent survival strategies. Clearly, these accomplishments may facilitate adaptation and produce feelings of fulfilment in many survivors. Thus, the external attainments represent significant adaptive achievement in their lives. This dilemma also applies to the reactions of professionals (countertransference) working with and studying survivors and their children.² Furthermore, such views may cause survivors, who may already feel isolated and alienated from those who did not undergo similar traumatic experiences, to see themselves as deficient, especially when compared with their fellow survivors, who appear to be able to cope and may deter them from seeking help.

Continuity needs to be assured at the level of both individuals and communities. Routes to integration may include reestablishing, relieving and repairing the ruptured systems of the survivor and his or her community and nation, and restoring their place in the international community. For example, on the basis of interviews with victims/survivors of the Nazi Holocaust, Japanese Americans and victims from Argentina and Chile, the Office of the United Nations High Commissioner for Human Rights has suggested the following goals:

- Re-establishing the victim's value, power and dignity through compensation, both real and symbolic, restitution, rehabilitation and commemoration;
- Relieving the victim's stigmatization and separation from society through commemoration, memorials to heroism, empowerment and education;
- Repairing the nation's ability to provide and maintain equal value under the law and the provisions of justice by apology, securing of public records, prosecution, education and, as recommended in Economic and Social Council resolution 1990/22, creating mechanisms for monitoring, conflict resolution and preventive interventions.

2. Training for mental health professionals

The Department of Mental Health of the World Health Organization has issued a document on the psychosocial consequences of disasters, which describes techniques and strategies for a psychosocial response to disasters, whether man-made or natural. It advocates the setting up of a national (or local) interdisciplinary disaster team, where this has not already been done. The initial medical relief structures should be incorporated in the permanent infrastructure, in accordance with the principle that emergency assistance should be provided in ways supportive of recovery and long-term development.

To achieve this, the following preliminary steps are suggested in the World Health Organization document:

- Development of a core of training materials for national or regional use to be available for various levels of staff, e.g. mental health professionals, general health professionals, auxiliary health workers, and community (non-health) workers;
- Compilation of a literature review accessible to non-mental health professionals;
- Organization of workshops and conferences on “disaster mental health training” for national mental health decision makers or persons designated by them;
- Interdisciplinary training to foster optimal coordination of medical, mental health, logistic and other personnel working with trauma survivors.

With regard to the needs of refugees, the World Health Organization and the Office of the United Nations High Commissioner for Refugees have recognized that psychosocial needs should not be ignored and, indeed, are as important as physical needs. In the first instance, the World Health Organization, with the support of the Office, has produced a manual for the mental health of refugees and of others in emergency situations. This is aimed at non-professionals, as was its manual *The Community Health Worker*, published in 1990. The idea is to help those working with refugees to understand how they can provide mental and psychological support to those in emergency situations. The manual includes chapters on children, dealing with traditional healers, alcohol and drug problems, helping victims of torture and other forms of violence, as well as a separate chapter on helping victims of rape.

Another training initiative is a tape-slide programme on mental health management in disasters, produced in both English and Spanish by the World Health Organization Regional Office for the Americas.

The International Society for Traumatic Stress Studies has developed detailed curriculum modules for mental health professionals, among others. The goal has been to formulate curricula for each professional sub-specialty engaged in the treatment of victim survivors of traumatic events likely to cause post-traumatic stress disorder (PTSD) and to provide appropriate training for others concerned with this syndrome. The core curricula have been developed in a multidisciplinary framework, integrating various sources of information (biological, psychological, social and educational). The training modules can either serve as a basis for special training courses or provide input for wider training programmes. Separate curricula are available for psychiatry (aetiology, epidemiology, diagnosis and treatment), psychology (with one broader curriculum on such subjects as abnormal psychology, problems in facing daily life, and mental health problems in public health, and a second curriculum designed as a full semester-long course in Ph.D. or Psy.D. programmes), and social work (family stress, family systems, crisis theory, abnormal behaviour and human growth and development).

3. Treatment of traumatic stress

The majority of professionals believe that the most successful interventions are those implemented immediately after the trauma. Such interventions not only ease the acute response to trauma but often forestall the later development of PTSD and its potential life-long and inter-generational effects.

Results with chronic PTSD patients are often less successful. Often, but not always, the best therapeutic option for mildly to moderately affected PTSD patients includes individual, family, group and community therapy. In such a setting, patients can discuss traumatic memories, PTSD symptoms and functional deficits in the context of their own life experiences and developmental histories with others who have had similar experiences. This approach has been most successful with war survivors, rape/incest victims and natural disaster survivors.

For many severely affected patients with chronic PTSD a number of treatment options are available (often offered in combination), such as dynamic psychotherapy, cognitive behavioural therapy (direct therapeutic exposure and cognitive reprocessing) and pharmacotherapy. Results have been mixed and few well-controlled therapeutic trials have been published to date. The therapeutic goals set should be realistic because, in some cases, PTSD is a chronic and severely debilitating psychiatric disorder that is refractory to currently available treatments.

Attention must also be paid to the mental health needs of the caregivers themselves, who are faced with heavy demands during emergencies as well as in continuous work with trauma victims and who may themselves be exposed to a substantial risk of stress-related disorders.

The majority of staff subjected to traumatic stress report a need to work through any traumatic emotional experiences by sharing their feelings with others within the group. A mental health professional can act as the formal leader of the debriefing group or may give training to professionals in rescue organizations so that they can lead such activities. Debriefing involves going through, in detail, the sequence of events as experienced by each participant. Those involved should also share with the rest of the group their thoughts and feelings during and after the traumatic events. The goal of debriefing is not only to prevent psychiatric problems but also to deepen learning experiences about work concerned with dealing with emotional trauma and mastering stress.

I. Clergy, spiritual and informal leaders

***Goal:** To integrate an understanding of victimization and victim assistance into the activities of the clergy and spiritual and informal leaders and to encourage them to promote the dignity of the victim.*

1. Critical issues of victim assistance for clergy (and associated lay groups) and spiritual leaders

The clergy and spiritual leaders are a vital source of support for victims. Although many people turn to the clergy first in a crisis such as crime victimization, there can be a general lack of education and understanding of the needs of victims on the part of the clergy. In some jurisdictions representatives of the religious community go to court or to prisons to give comfort and assistance to the accused but have not developed similar programmes for victims.

As with other front-line professions, there is a need for clergy and other spiritual leaders to understand crime victimization and how it differs qualitatively from illness or accidental or natural death.

Because many victims seeking help in trauma go to the clergy, it is essential that clergy and the entire community of faith are sensitive to the concerns and unique needs of victims. A national study on mental health in the United States points to this clearly. Research conducted in 1960 indicated that 42 per cent of Americans seeking help in trauma went to clergy, while 29 per cent went to general practitioners, 17 per cent to psychiatrists, 10 per cent went to other mental health professionals and 2 per cent to aid professionals. Significantly, in a 25-year follow-up of the study, while the percentage of individuals turning to the clergy for support in the aftermath of trauma had declined, 34 per cent continued to seek the help of the clergy, a figure still higher than for all other sources.

Victimization can have an impact on an individual's perception of his or her own religious beliefs by challenging the belief system with which one has grown up. One victim noted, "I found myself questioning some of the deep basic beliefs that I had grown up with.

At one time they comforted me.” Victimization poses challenges to the belief that God is in control. The question often arises, “Why did He let this happen to me?”. Or there can be the challenge of maintaining a long-held belief in forgiveness, which now the victim may understandably be unable to exercise.

Pastoral counselling techniques closely resemble those employed by psychologists in some seminaries. Clergy and spiritual leaders should be trained in helping others to deal with PTSD and other psychological reactions to crime victimization. In addition, they should know what community resources, such as victim compensation and assistance programmes, are available so as to be able to provide appropriate referrals to victims of crime.

2. Training for clergy and spiritual leaders in victim assistance

In-service training should be provided for all clergy and religious leaders. Such training should be expanded to include pastors, priests, rabbis and imams of local congregations, as well as hospital, police, military and other chaplains who provide services to victims.

Training programmes on victim assistance should also be established for seminaries, religious colleges and other clergy education facilities. Curricula should be developed in consultation with the heads of the pastoral care departments of these schools.

Information on victim assistance (such as booklets, videos or training manuals) targeting religious leaders should be prepared and disseminated widely. Ministerial and inter-faith leadership coalitions should be identified and should include denominational leadership programmes, as well as the leadership of large para-church bodies.

The United States Office for Victims of Crime has made some initial progress in providing training for clergy and religious leaders of all faiths on crime victim assistance in the United States. The most significant of these measures has been the clergy in-service training initiatives conducted by The Spiritual Dimension in Victim Services. These included: (a) city and state-wide training events, the most recent being for clergy and hospital chaplains in high-crime urban areas; (b) a survey of 96 religious denominations concerning the extent of their involvement in crime victim assistance and their interest in receiving training; and (c) workshops at national and regional denominational events. A product of all of these training initiatives is a training publication, entitled *Victims: A Manual for Clergy and Congregations*, which is now in its fourth edition.

3. Examples of victim assistance through religious or spiritual institutions

In the United States, Neighbors Who Care is an interdenominational Christian programme founded in 1992 as the victimserving subsidiary of the large national organization Prison Fellowship. This programme enlists volunteers from churches to provide a direct service to victims of certain crimes, beginning with particular emphasis on property crime. The programme has now been expanded to include services to victims of domestic violence and of other crimes. These Christian volunteers provide assistance in such matters as property repair, transportation, moving and active listening support, together with many other vital services.

In Rio de Janeiro, Christian, Jewish and other spiritual and human rights organizations work closely with victims of crime, in particular children and the elderly.

J. Landlords and housing entities

Goal: To improve the response of individuals and of private and public entities that directly provide for treatment of victims of crime through programmes and policies integrating the philosophy of victim assistance.

Housing authorities

In some jurisdictions, landlords and housing entities have created victim assistance programmes for victims of crime. Such programmes can include relocation services for victims, if needed; home repairs for damage due to crime; and policies or laws that prohibit evicting victims.

In the United States, for example, a public housing authority in Chicago, Illinois, developed a victim assistance programme to provide support and services to residents in the immediate aftermath of violent crime. The programme has now been expanded to include crisis response services to residents and communities impacted by a traumatic event. Programme services include court advocacy, short-term counselling, landlord intervention, school intervention, employer intervention, transportation, financial aid assistance, emergency relocations, crisis response, crisis intervention, debriefings and social service referrals.

K. Employers

Violence in the workplace is relatively widespread in some societies, often with severe long-range effects on both the employers and employees. The special dynamics of violence at work are important in understanding its impact and the appropriate response to victims.

Among the various approaches to violence at work are the following:

- *Pre-incident efforts.* Effective responses to violence include planning, training of the relevant persons and creation of policy statements, which can help guide the behaviour of those involved in supervising and supporting victims of violence;
- *Immediate response.* Immediate support typically includes reorienting the victim to post-incident reality, provision for physical and practical needs, information about assistance programmes and other services;
- *Short-term services.* Services after violence at work consist of group meetings led by trained facilitators for the purpose of ventilation, assessment, education and support. These “debriefing” services may include detailed discussions of the incident, psychological changes and coping skills;
- *Follow-up services.* Often victims of workplace violence will require longer-term mental health services.

Each organization should assess its individual circumstances and develop a plan of action to handle potential problems.⁴ The plan should indicate effective strategies for disseminating information about the prevalence of violence in the workplace, as well as prevention strategies and training of personnel in how to defuse potentially violent situations.

Education for all employees, managers and supervisors can increase the sensitivity of staff to the clues that suggest an employee could become dangerous. Clues that might previously have gone unnoticed or been ignored can become important signals of potential violence.

Persons concerned with the problem should develop a crisis response protocol that sets forth how to respond to a violent incident in the workplace, including procedures for referring victims to needed services.

L. Embassies, consulates and foreign missions

Embassies, consulates and foreign missions can become the first points of recourse for victims who are travelling or living abroad. People victimized in a foreign country are often unable to speak the language of that country or lack familiarity with its justice system. They therefore seek advice and services from their own embassy or consulate.

Embassy personnel should receive training on victim issues, including the impact of victimization and available compensation and assistance services. The treatment that the

victim receives from embassy personnel can have a significant effect on the healing process for the victim. Embassy personnel should be trained in appropriate ways to respond to victims, as well as about appropriate referrals to agencies in both the foreign and the home country.

Mexico has designed a special model to assist victims of crime, with a special unit that works to sensitize diplomatic and consular personnel about crime victim issues. These personnel can also assist in the effort to prevent victimization of migrants.

M. Protocols for staff victimization

All professionals who come into contact with victims of crime face the issue of their own victimization. Procedures should be established for handling cases involving the victimization of professionals to ensure that they receive needed services, such as mental health counselling.

For example, in many jurisdictions, reporters, photographers, camerapersons and editors are confronted on a daily basis with a barrage of brutal violence and tragedy, with little opportunity or guidance offered as to how to cope with personal trauma related to such professional challenges. In addition, some journalists are themselves victims of the very crimes that they are assigned to cover, which can in itself produce unexpected trauma reactions.

Cooperative efforts among victim service providers, the mental health community and others can provide professionals who come into contact with crime and victimization with periodic debriefings to help them address the stressful nature of their careers and offer helpful coping mechanisms to deal with acute and chronic stress on an ongoing basis.

Chapter IV

Advocacy, policy-making and law reform: the role of civil society

Since the adoption of the Declaration of Basic Principles of Justice for Victims of Power and Abuse of Crime, important progress has been made in many nations to assist victims of crime. Yet there are few, if any, nations where the Declaration has been fully implemented in a comprehensive and systematic way. Victim assistance is still mainly provided informally by family and friends or indirectly by general welfare and medical programmes, where they exist.¹ The programmes that were described above in chapters II and III remain the exception rather than the rule, even in affluent countries. Support services and counselling have become widespread in only a minority of countries. Laws provide for civil remedies, but victims rarely have the capacity to make use of them. Restitution is available within criminal codes, but is ordered rarely and even then may prove difficult for many victims to receive. In more and more affluent countries, compensation from the State is available, although victims may have difficulty finding out about it.

Since the adoption of the Declaration, countries such as Belgium, Canada, France, Germany, India, Israel, Japan, Mexico, the Netherlands, New Zealand, South Africa and the United Kingdom have introduced significant improvements to meet the needs of victims. Further, states in Australia and the United States and provinces in Canada have introduced statements of principles about how victims should be treated as well as many other laws and programmes. These safeguard victims' rights that protect their interests in the criminal justice system in addition to providing social and financial support to victims. Successful reform is often a "marathon rather than a sprint", with gradual reforms being introduced from within the existing system.

In many cases, these reforms were the direct result of the efforts of non-governmental organizations to convince law and policy makers, officials in law enforcement and justice, and the public of their crucial importance to crime victims. These organizations also play an essential role in keeping officials aware of ways in which victims are ignored and mistreated,

and of practical programmes for improving both justice and law enforcement responses and the daily lives of victims.

This section discusses the policy-making role of organizations involved in addressing the needs and promoting the interests of victims. These organizations often play a role in both providing practical assistance and influencing policy and legislation relating to victim issues. In many countries such organizations have acted as catalysts in initiating and monitoring victim policies.²

These organizations play a key role in the initiation, development and implementation of policies and services that empower victims of crime. Their creation is often dependent on “champions” who sacrifice their efforts to get the issues in the public arena and the organization launched. Their ongoing success often depends on Governments and private entities providing some stable funding both in the initial phases and in later phases where public education, training and standard-setting remain priorities.

Currently, international exchanges of best practice play an increasingly important role in fostering victim policies. The World Society of Victimology provides a list of names and contact addresses for many of the persons involved in these organizations. Increasingly, the organizations have addresses on the Internet that provide information on their purposes, the composition of their board and their principal activities. A sampling of Web sites is listed in the appendix to this *Handbook*.

Chapter IV. Advocacy, policy-making and law reform

In countries where policies sensitive to victims are inadequate or non-existent, the first step is to persuade the general public, political parties and Governments to become more responsive to victim needs. Lack of action is often due to lack of information, lack of commitment and lack of political champions.

Several types of arguments have been successfully used to raise awareness for reforms. In any efforts to influence law reform and the development of operational programmes, it is important to be sensitive to the constitutional, legislative, budgetary, administrative and cultural conditions in a country at a particular time. Nevertheless, there seem to be certain overriding arguments:

- Victims deserve respect for their dignity, privacy and personal safety;
- Assistance to victims in coping with the aftermath of their victimization prevents alienation from the criminal justice system and the community;
- The costs of crime can be reduced by helping victims to recover;
- Victims are the main source of information about crimes and criminals for police, prosecutors and criminal justice agencies;
- Providing crime prevention information to victims is a key intervention in preventing repeat victimization and associated costs.

A. Raising awareness

Civil society organizations have developed a variety of approaches to the task of sensitizing the public and legislators to the issues. These include:

1. Legislative directory

A directory of local, state and national legislation on victims’ rights can be used as a tool to alert legislators to existing legislation and to provide specific wording and ideas in the interests of progress. In the United States, the National Organization for Victim Assistance compiled an analysis of the types of legislation being adopted in different states, indicating those states which had instituted legislation and those which had not. For instance, it was

possible to see which states had programmes to provide compensation to victims. Today, thousands of state and federal laws have been enacted to protect victims' rights and these rights have been strengthened in 29 states by constitutional mandate.

2. Standard setting

Developing a set of standards for the provision of services to victims is another important element in raising awareness. In England and Wales, the National Association of Victim Support Schemes has established standards for victim support schemes. These standards require persons launching new services to provide a certain minimum level of services, to cooperate with the police and the probation service and to have in place arrangements for recruiting and training volunteers. This was one factor in the success of the National Association of Victim Support Schemes in providing complete geographical coverage in England and Wales.

3. Action research and evaluation

Research and evaluation of programmes are essential for improving services to victims. Research can be used as an effective advocacy tool for promoting best practice amongst service providers and persuading government officials to take action. Researchers in several affluent countries and now also in developing countries have undertaken surveys of the extent and nature of victimization. Researchers in several countries have given us a clear and consistent picture of what victims need.

In Canada, Plaidoyer-Victimes undertook a systematic set of interviews with victims applying for compensation from the State, as part of a process designed to yield improvements in the quality of services provided by the State compensation programme. In the United States, the National Institute of Justice has undertaken significant research in many areas of victimization. In addition, the United States is undertaking a major evaluation of all of its State victim compensation and assistance programmes.

4. Professional development of legislators

Keeping legislators informed and educated about victim rights and needs is essential. For example, in 1981, the National Organization for Victim Assistance and the Canadian Council on Social Development formed a strategic partnership with the Centre for Legislative Exchange to undertake a one-day briefing of legislators on the needs of victims and legislative remedies. The Centre for Legislative Exchange is an organization linked to the Canadian Parliament, which undertakes exchanges between Canadian and United States legislators. This briefing raised awareness among parliamentarians regarding the need for victim legislation.

5. Victim boards

New York State converted its Crime Victim Compensation Board into the Crime Victim Board, which had a division to fund victim services, another for compensation and a third to promote victim rights. This latter division was instrumental in facilitating many of the first successful civil suits on behalf of victims as well as a set of victims' rights.

In addition, groups working for victims of particular groups of crimes against women, such as sexual assault and abuse, have formed their own associations to service, lobby and educate. Individual victims also group together to fight for prevention, victim assistance and retribution in relation to crimes such as drunk driving, child kidnapping and murder. Several have Internet addresses and produce newsletters.

6. Victim surveys

In many countries, the introduction of victim surveys has convinced the media and policy makers of the urgency of addressing the unmet needs of victims of crime, especially of those unreported to the authorities. The surveys of the general public demonstrated how many people had been victims of common crimes and what proportion had reported these to the police. The Governments of the Netherlands and the United Kingdom have conducted the International Crime (Victims) Survey.

7. Surveys of victims' needs

In the United Kingdom, the National Association of Victim Support Schemes in England and Wales provides one impressive example of what can be done. The initial effort to set up support schemes was reinforced by research. When the research was completed, the recommendations were studied by both the Government and the Association. As a result, new

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funds were provided, professionals were recruited for most of the projects and assistance has begun to be provided for the full range of victims from the time of the victimization through to the end of the court case.

In the Netherlands, a new act to provide procedural rights and administrative guidelines to encourage more sensitive treatment by the police and prosecutors was introduced in two judicial districts for scientific evaluation, before being extended across all 19 districts of the country in 1997.

8. Surveys of victim satisfaction

An important point to mention is the use of evaluation research to monitor the implementation of victim policy. A good example of how Governments can work towards optimizing the treatment of victims is provided by victim satisfaction surveys (similar in this regard to customer satisfaction surveys). In the Netherlands, such surveys are conducted regularly by the public prosecution service. Victim satisfaction with the police is measured in the biannual police monitor organized by the Governments of the Netherlands and Belgium.

9. Public mobilization

In the United States, one week in April each year has been dedicated to victim rights for approximately two decades. The aim has been to sensitize the legislators and the public to victim concerns. National Crime Victims' Rights Week is declared by the President each year to highlight the needs of crime victims as well as the types of rights and services that might respond to those needs. Declarations are signed by many leading politicians, such as state governors and mayors. The Federal Government, through its Office for Victims of Crime, funds a "resource kit", which is disseminated at the national, state and local levels to help communities plan coordinated events in connection with the Week. The kit includes sample speeches, slogans, sermons, posters, facts about crime and victims, and historical information.

Europe celebrates a European Victims' Day each year with new initiatives being announced. In 1997, the European Forum for Victim Services issued a "Statement of Victims' Rights in the Process of Criminal Justice", which focused on the rights of victims to:

- Respect and recognition at all stages of criminal proceedings;
- Information and clarification about the progress of their case;
- Provide information to officials responsible for decisions relating to the offender;
- Legal advice, regardless of their financial means;
- Protection, both of their privacy and of their physical safety; C Restitution from the offender and compensation from the State.

Countries are spending significant resources on educating their youth for their role in society. It is crucial that young people understand what they can do individually and collectively for victims of crime and to prevent victimization by ensuring that issues such as the trauma of victimization, conflict management, appropriate criminal justice responses and restorative community justice are included in standard educational curricula from pre-school through to university courses.

Action is required by the media to stimulate public interest in victims and thus ensure support for individuals and agencies engaged in efforts to assist victims. Moreover, some of the general techniques for responding to victims, such as encouraging the victim to talk and listening actively, will be helpful for professionals and caring citizens.

B. Policy development

1. Inter-agency and intersectoral partnerships

Policies to improve the treatment of victims should be based on a comprehensive strategy that coordinates efforts at all levels. One possible step towards this goal is the establishment of a high-level committee or working group with representatives from all relevant bodies, such as ministries or departments of justice, the interior, safety and security, welfare, health, education and social services, as well as leaders of services responsible for policing, prosecutors, courts, legislators and local government. The academic and research community, health and mental health professions, various voluntary organizations such as women's and youth groups, religious organizations and the business sector, including insurance, should also be involved.

Such advisory bodies can undertake, or be assigned, the task of:

- Performing needs assessments, including participation in the international victimization surveys, and studies of special victim groups, such as victims of domestic violence, abuse of power or sexual assault;
- Assessing the shortfall between needs on the one hand and services and existing legislation on the other, including the identification of obstacles hindering access to justice;
- Making proposals for improvements in the treatment of victims in the immediate and long terms, including those requiring financial commitment and/or legislative reform;
- Recommending ways to finance services, such as general revenue and reparative payments by offenders.

Such groups in Australia, Canada, France, India, Nigeria, South Africa and the United States, as well as at the United Nations and the Council of Europe, have given the world a substantial list of practical actions that Governments can take to protect victims of crime.

There have been three major reports of European ministers on victims of crime. One report led to a convention setting minimum standards for compensation by the State, which could encourage reciprocal arrangements between different jurisdictions. The report on the position of the victim in criminal law and procedure encourages jurisdictions to move towards procedures that are commonplace in France, where the victim is represented at critical stages of the court process. The third one focuses on assistance to victims and prevention of victimization.

The creation of "truth commissions" can be an important tool in obtaining justice for victims of abuse of power. For example, in the case of South Africa's Truth and Reconciliation Commission, pardons are granted for actions dating back to the apartheid years which were taken for political reasons and for which there is full disclosure. The

Commission grew out of a recognized need for reconciliation, nation-building and the need to heal a wounded society.

These national and international commissions may be permanent or else re-established when new problems arise requiring an adequate government response. In the United States, 15 years after the Presidential Task Force on Justice for Victims of Crime, a major effort was devoted to evaluating the progress made in implementing its recommendations and identifying what the country should strive to achieve for victims as we move into the twenty-first century.

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2. Governmental agencies for victims of crime

Civil society organizations should lobby for the establishment of permanent high-level governmental agencies dealing specifically with victims of crime, such as the United States Office for Victims of Crime, in order to foster a continuing process of policy development for victims.⁵ Such permanent crime victim units ensure that implementation and appropriate training take place and can also organize evaluation of the implementation.

As mentioned above, some jurisdictions, such as New York State, have converted their crime victim compensation board into a crime victim board, where victim assistance, victim advocacy and compensation have been brought together. In California, victim assistance, compensation and crime prevention are handled by a single agency, funded by general revenue and levies on offenders.

In Victoria, Australia, a fully integrated and coordinated system has been established. Police distribute a “notice to the victim form” and “counselling claim form” when a crime is reported. A central clearinghouse, the Victims Referral and Assistance Service, offers immediate free counselling through registered psychologists and provides referral to other government or community agencies. It arranges for applications to the Victims of Crime Assistance Tribunal, which responds to and funds further medical, dental, counselling or other needs, as required. Funding for community programmes is also coordinated through the Victims Referral and Assistance Service. A victim may also wish to seek an order from the court for monetary compensation from the offender for pain and suffering experienced as a result of the crime. This application can be made if the offender is found guilty. The victim may request the police or prosecutor to make an application on his or her behalf.

In 1993, Mexico adopted a new reform recognizing certain rights for all victims of crime. It established that victims have the right to advocacy assistance during all criminal proceedings; the right to adequate reparation for damages; the right to participate in the process as a coadjutant; and the right to receive emergency medical assistance.

C. Legislation

Civil society organizations can promote law reform by:

- Referring to existing international and national legislation and demanding its enforcement; C Monitoring implementation and identifying loopholes in connection with newly arising problems; C Asking for full implementation of the Declaration.

Protection of victim rights constitutionally

Countries that are establishing new constitutions may consider including a section to protect the interests of crime victims.

In the United States a growing number of states have modified their constitution to respect the interests of crime victims. The Presidential Task Force in 1982 stated that “victims of crime are entitled to certain basic rights, including but not limited to the right to

be informed, to be present and to be heard at all critical stages of federal and state criminal justice process to the extent that these rights do not interfere with existing constitutional rights”.

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A joint resolution of the Senate and House of Representatives of the United States Congress has been prepared to amend the United States Constitution as follows:

- Each victim of a crime of violence shall have the right to:
- Reasonable notice of, and admittance to, all public proceedings relating to the crime;
- Be heard, if present, and to submit a statement at all public proceedings to determine a release from custody, an acceptance of a negotiated plea or a sentence;
- The foregoing rights at a parole proceeding that is not public, to the extent that those rights are afforded to the convicted offender;
- Reasonable notice of a release or escape from custody relating to the crime;
- Consideration for the interest of the victim in a trial free from unreasonable delay;
- An order of restitution from the convicted offender;
- Consideration for the safety of the victim in the determination of any release from custody; C Reasonable notice of the rights established by this article.

Some legal critics are concerned that the various state constitutional amendments that have been proposed and adopted in the United States to protect crime victims’ interests provide some public education but do not yet provide an effective guarantee for victims.

Mexico has already modified its constitution to include respect for the rights of victims of crime.

D. Funding and financial recovery

Each year victims of crime suffer enormous human and financial losses. Yet too few funds go to preventing, assisting, protecting and empowering victims.

1. General revenues

Governments may be looking for ways to reduce their expenditures. It may therefore seem impossible at first to find ways to provide better services to victims.

On the one hand, the priorities of existing agencies such as health care, police and prosecutors may be changed in the interests of better meeting the needs of victims. On the other, new technology can facilitate processes such as payment of restitution by offenders.

All of this requires work such as that identified in the earlier sections of this chapter.

2. Innovative means of funding assistance to victims

There are many innovative ways to fund programmes for victims, assistance and compensation being two examples.

Several countries are using additional fines on offenders. Through an amendment to the criminal code or sentencing statute, judges are empowered to order a special fine that will place the payment in a fund that can only be used for services to victims. Some central government agencies resist these amendments on the grounds that they do not allow for appropriate setting of fiscal priorities, but such arguments must be met by stressing that fiscal priorities tend to be influenced by those who have the most funds already, whereas the victim movement needs some special protection.

In the United States, the federal Crime Victims Fund is derived not from tax dollars but from fines and penalties paid by federal criminal offenders. A total amount of \$530 million was contributed through this mechanism in 1996. The Fund is administered by the

Office for Victims of Crime. Nearly 90 per cent of the money collected each year is distributed to states to assist in funding their victim assistance and compensation programmes, which are the lifeline services that help many victims to heal. Federal victim assistance funds help to support over 2,500 local victim service agencies, such as domestic violence shelters, children's advocacy centres and rape treatment programmes. Compensation funds provide reimbursement to victims for out-of-pocket expenses resulting from crime, including medical and mental health counselling costs, lost wages and funeral expenses.

Some countries use the money seized from organized crime. Their statutes empower the State to expropriate the illgotten gains of persons involved in racketeering and organized crime. The seized property is sold and the proceeds used for programmes such as crime prevention and services for victims.

Some countries provide for punitive reparation orders over and above civil damages. Various efforts have been made to facilitate civil reparation, such as facilitating access to legislation and court decisions. Some high-profile cases have successfully obtained damages from the offender and also from a third party who facilitated the offence by taking adequate precautions to protect the victim. Special legislation can "bankrupt" offenders or place their assets and income in some form of protected fund so that victims can claim restitution before the assets have been dissipated.

Some have advocated that a fixed percentage of the gross expenditure on police, courts and prisons go to the work of a commission or office that is promoting change for victims.

In Germany victim support schemes are fully financed out of private contributions from private individuals and businesses. In France compensation is financed in part through private insurance schemes.

In Victoria, Australia, victim services are funded from government revenue. These funds have been reallocated away from direct payments to crime victims and towards meeting all their medical, dental, counselling and other needs. This "package" approach enables all the needs of the victim to be met in a timely and efficient manner. In addition to medical costs, which are generally covered by the national Medicare scheme, a victim is entitled to up to \$60,000 coverage of costs associated with victimization. In addition, families of homicide victims receive a cash payment of \$100,000.

In the 1970s, several organizations were launched to bring together those committed to canvassing for improvements and providing services and more responsible justice to victims of crime. In 1975, the National Organization for Victim Assistance was founded in the United States of America. In 1979, the National Association of Victim Support Schemes was formed in England and Wales. In 1984, the Institut national d'aide aux victimes et de médiation was founded in France and Plaidoyer-Victimes in Quebec, Canada. Internationally, the World Society of Victimology was launched in 1979. Today many affluent countries have such organizations.

In the United States, the total annual costs of medical expenses, mental health counselling and lost wages alone are estimated at \$403 per person and substantially more for victims. Total costs of crime, including the operations of police, courts and corrections, private security, property loss and estimates of loss of quality of life, exceed \$725 per person for countries such as the United States.

Even in the United States—one of the world's most successful economies—little of this money goes to victims for prevention, assistance, protection, compensation or empowerment. For instance, in 1996, 110,000 victims received an average of approximately \$2,000 from state compensation programmes.

It is relatively easy to estimate the costs of policing, justice and corrections for a particular country, where a central statistical bureau provides this information. For instance,

for the United States the costs per year are about \$100 billion for a population of 265 million, or about \$375 per person or nearly \$1,000 for the average family. The other estimates are harder to obtain. However, the mere listing of types of costs is sufficient to impress most policy makers.

Thus, 60 per cent of the crime of which police are aware in industrialized countries is reported by victims. If victims did not provide information to the police and cooperate with prosecutors, there would be few cases.

At the federal level, the Office for Victims of Crime was established by the 1984 Victims of Crime Act to provide federal funds to support victim assistance and compensation programmes around the country and to campaign for the fair treatment of crime victims. The Office for Victims of Crime administers grants for programmes designed to benefit victims, provides training for the diverse professionals who work with victims and develops projects to enhance victims' rights and services. Its mission is to help provide victims with justice and healing. In addition, the Office for Victims of Crime sponsors training on a variety of victims' issues for many different professions, including victim service providers, law enforcement, prosecutors, the clergy and medical and mental health personnel. Training on victim-witness issues is also provided for some 70 federal law enforcement agencies, such as the Federal Bureau of Investigation, the Department of Defense and the National Park Service.

The provisions are limited by four other sections, including the following: "Only the victim or the victim's representative shall have standing to assert the rights established by this article. Nothing in this article shall provide grounds for the victim to challenge a charging decision or a conviction; to overturn a sentence or negotiated plea; to obtain a stay of trial; or to compel a new trial. Nothing in this article shall give rise to a claim for damages against the United States, a State, a political subdivision, or a public official."

Chapter V

Working together at the international level

While most victim-related policies and practices will be developed and implemented nationally or locally, there is much to be gained from sharing expertise and exchanging experience at all levels, including the regional level and the broader, international level. Although stages of development, national circumstances and specific problems, as well as response capabilities, may differ, there are enough common features to make inter-country collaboration— among the authorities, services and professionals concerned—eminently worthwhile. Victim groups can also usefully pool their efforts, and some already have (a case in point being the relatives of disappeared persons). The basic principles of justice for victims of crime and abuse of power contained in the Declaration are inclusive enough to transcend national and cultural specificities, although their application should be adjusted to these specificities. The international norms developed by consensus in various areas represent basic standards against which jurisdictions can assess their own practices with a view to the changes that need to be introduced. Many jurisdictions can do so on their own (some have already advanced beyond the minimum desiderata); others will require some outside assistance. But all can profit from the cross-fertilization of ideas and shared know-how. It is a two-way street: developed countries have much to learn from the customary practices of developing countries focusing on conflict resolution and reparation to victims; the recent emphasis on "restorative justice" in some developed countries reflects a certain parallelism that could be made more explicit. In the "global village" which the world has increasingly become, with its instant communications, the plight of victims is highlighted daily, but this can be equally true for the attempts to reclaim them and to prevent their creation through increased human solidarity.

A. Regional and sub regional strategies

The formulation of more victim-centred policies and the upgrading of victim-related practices can be facilitated by collaboration among countries of particular regions and subregions united by common traditions and facing problems of mutual concern. The steps taken in some regions, through either established or new collaborative mechanisms, represent considerable advances. Thus, the European Convention on the Compensation of Victims of Violent Crimes and Guidelines on Assistance to Crime Victims were adopted in the context of the activities of the Council of Europe. The European Forum for Victim Services is complementing these primarily statutory intergovernmental initiatives with practical collaboration among victim service providers designed to monitor developments, to allow discussion and feedback (through meetings, surveys, directories and so on) and to encourage meaningful dialogue and constructive change. This consortium could co-opt new members from central and eastern Europe, where much needs to be done, while also helping to establish and support the activities of similar forums elsewhere.

The regional human rights courts in Europe and Latin America have heard cases dealing with victim concerns. The European Court of Human Rights and the Commission on Human Rights have dealt, *inter alia*, with complaints of prisoner mistreatment, while the Inter-American Court of Human Rights, in a ground-breaking decision, awarded damages to the surviving relatives of disappeared persons, holding a Government accountable for the violation of its duties and fundamental guarantees contained in the American Convention on Human Rights, which it had ratified. The African Commission on Human and Peoples' Rights has a partly promotional mission: to collect information, conduct research and formulate principles, as well as collaborate with other African and international institutions in fostering the observance of fundamental rights and reducing victimization. Having recently developed its conflict resolution role, it provides for the submission of negotiation and complaint communications, as stipulated in the African Charter on Human and People's Rights, including those by parties other than States, such as individual complainants and national or international non-governmental organizations.

In the United Nations Crime Prevention and Criminal Justice Programme network, the regional institutes for the prevention of crime and the treatment of offenders have played an important role in victim-related initiatives, which could be expanded. This is particularly true of initiatives designed to promote information exchange and to provide training. The European Institute for Crime Prevention and Control, affiliated with the United Nations, has convened a conference on victim policy in Europe and co-sponsored the development of a manual on domestic violence for practitioners. The African Institute for the Prevention of Crime and the Treatment of Offenders has conducted a regional training course on the treatment of crime victims. The Latin American Institute for the Prevention of Crime and the Treatment of Offenders has a research project on women and criminal justice, while other institutes and associated centres have also sponsored relevant activities that could be extended further. The harmonization of legislation and development of model laws and regulations for the national implementation of the Declaration can help to translate it into reality. In this connection, it would be important to draw on indigenous practices and traditions that have often been discarded in an effort at "modernization" relying on alien prototypes to the detriment of victim-oriented approaches. The consequent neglect of victims was deplored, for example, at a recent conference held at Abuja, Nigeria, which called for corrective action. The regional institutes have been entrusted with a lead role in helping to develop national capabilities in various facets of crime prevention and criminal justice and in promoting collaborative strategies, including those for protection of and assistance to victims.

They can help, along with other regional entities, to monitor developments with a view to pre-empting or curtailing victimization before it takes its toll.

Subregional cooperation can be even more manageable in strategic terms, especially when countries with similar criminal justice systems are involved and subregional cooperation frameworks, such as the Caribbean Community Secretariat, are already in place for other joint initiatives. The development of subregional conventions for mutual judicial assistance in criminal matters for example, for the Economic Community of West African States, could be complemented by victim-related instruments that would facilitate the adoption of joint preventive and remedial strategies. The regional institutes, which have been entrusted with a major role in the development of this *Handbook*, could expand their other victim-related activities at both the regional and subregional levels, in cooperation also with the regional commissions of the Economic and Social Council, advisers and professional associations. This could include pilot projects and demonstration schemes (for example, on victim services), the preparation of annotations to the Declaration, the development of core curricula and databases and the undertaking of comparative surveys and evaluation studies.

B. International cooperation to reduce victimization and assist victims

To have maximum effect, regional initiatives on behalf of victims will need to be taken within a broader international context, in which there is interregional feedback. Some of the victim-related problems facing different regions are similar in nature, although their outward manifestations may vary; they all require incisive action to spur local improvements and complement them as necessary. This is particularly the case where there is serious victimization that the authorities are unable or unwilling to curtail and victims are largely deprived of any remedies. The drafters of the Declaration envisaged this alternative and specifically called for the development, at the international and regional levels, of ways and means of providing appropriate recourse and redress for victims where national channels may be insufficient.

Some such avenues already exist in United Nations human rights complaint procedures, and others have been recently introduced by the Office of the United Nations High Commissioner for Human Rights (for example, a hotline) or have been proposed (for example, by the special rapporteurs), as has been the appointment of an international ombudsman and establishment of the right of petition. The prospects of an international criminal jurisdiction to help pursue wrongdoers were advanced by the creation of the international tribunals for the former Yugoslavia and Rwanda, which have victim-witness protection units but have encountered practical difficulties in their work. The Statute of the envisaged International Criminal Court, finalized by a preparatory committee on the basis of recommendations made by the International Law Commission and proposals made by Governments and non-governmental organizations and expert groups, contains a section on victims that has been expanded with input from the expert meetings on implementation of the Victim Declaration. The Statute of the International Criminal Court, which includes a provision in its article 79 for the transfer of fines and assets confiscated from offenders primarily to a trust fund for victims, was finalized and adopted at a Plenipotentiary Conference of Ministers, held in Rome from 15 June to 17 July 1998.

The reports of various United Nations investigative commissions and missions of inquiry (conducted, among others, by the United Nations special rapporteurs or representatives, or in connection with peacekeeping or humanitarian operations) have provided ample evidence of massive victimization, but those harmed and their kin have yet to receive the consideration that is their due and at least some form of redress. Much more needs

to be done to prevent such cataclysms from occurring in the first place: this is the major global challenge for the years to come.

Precluding—or at least reducing—impunity for the crimes committed may be a prime means of deterring potential offenders, especially in cases of massive victimization. All too often in the past, perpetrators have been able to escape accountability for their crimes by hiding in safe havens and/or profiting from broad amnesty laws or symbolic proceedings without being deprived of the spoils of their nefarious actions.

C. The role of the United Nations, in particular the United Nations Crime Prevention and Criminal Justice Programme

Various aspects of United Nations work with a bearing on victims have been mentioned above in connection with international and regional cooperation, but it may be helpful to the users of this *Handbook* to have a more comprehensive picture, with the main focus on the possibilities offered by the United Nations Crime Prevention and Criminal Justice Programme. The concern of the United Nations with victims of crime and abuse of power is long-standing but has not always been explicit. The United Nations Convention on the Prevention and Punishment of the Crime of Genocide, the Universal Declaration of Human Rights and other relevant covenants aim to curtail victimization, while specific instruments seek to protect certain vulnerable population groups such as refugees, minorities and indigenous populations. The Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women seek to eliminate abuses against children and women, especially violence and exploitation. International guidelines and action plans have been adopted to reduce abuses against the elderly, the disabled and the mentally ill—all these groups being at risk of victimization. Victims of natural and man-made disasters are the object of humanitarian assistance, the major goal of which is, perforce, the relief of pressing material needs (a broader approach is emerging in the efforts to deal with “complex emergencies”). United Nations peacekeeping operations attempt to protect civilian populations, seeking the observance of the Geneva and the Hague Conventions, which proscribe grave breaches of international humanitarian law in armed conflict. This goal has proved elusive, with frequent infringements, which was the reason behind the establishment of the special criminal tribunals mentioned above.

These brief references hardly reflect the scope of the ever-evolving United Nations activities aimed at safeguarding and pre-empting actual and potential victims. Apart from the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, some of the other instruments adopted over the years have also had their origin in the United Nations Crime Prevention and Criminal Justice Programme and the quinquennial United Nations congresses for the prevention of crime and the treatment of offenders. Thus, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment developed out of the Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Geneva, 1975), and the United Nations Declaration on the Elimination of Violence against Women drew on the resolutions of later crime congresses. The Commission on Crime Prevention and Criminal Justice is focusing, in its current work, on the curtailment of violence against women and children, as well as certain other forms of victimization (linked, for example, to alien smuggling, terrorism and organized crime). The question of victims of crime constituted a separate agenda item of the Seventh Congress (Milan, 1985),

which adopted the Victim Declaration, and a major aspect of an item on the prevention of urban crime, debated at the Ninth Congress (Cairo, 1995). The human rights of victims were considered by the Eighth Congress (Havana, 1990), which also adopted a resolution on domestic violence that laid the foundations for the development of this *Handbook*.

Initiatives relating to specific categories of crime victims, taken by the special rapporteurs in the context of the United Nations human rights programme, have been able to draw on the work carried out under the United Nations Crime Prevention and Criminal Justice Programme. This is true particularly of the development of the principles and recommendations on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, the proposed optional protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and measures against the sexual exploitation of children, which has been receiving increasing attention in the General Assembly and other United Nations forums.

The same is true of the need for viable measures against international terrorism, which claims innocent victims across frontiers. A Declaration on Crime and Public Security, containing some references to victims, was adopted by the United Nations General Assembly at its 1996 session. A Convention against Transnational Organized Crime has also been adopted, as has a code of conduct to curtail corruption, a type of conduct that victimizes entire societies.

1. From standard-setting to implementation

The United Nations work on the prevention of crime and treatment of offenders (including criminal justice) spans almost five decades. One of its main tasks—as in other fields—has been standard-setting with the aim of providing countries with a yardstick for gauging their own situation and progress. A substantial body of such standards have been developed, starting with minimum rules for the treatment of prisoners. Many of the standards, including that one and others dealing with alternatives to incarceration, the treatment of juveniles, the Code of Conduct for Law Enforcement Officials and restraints on the use of force, also aim to curtail victimization (the line between offender and victim is sometimes tenuous, as illustrated by a recent Crime Commission item on children as victims and perpetrators). With the growth of transnational crime in an ever-shrinking world, there has been an effort to develop international instruments, such as model treaties, to facilitate inter-country cooperation against such crime.

However, United Nations standards and other instruments, and likewise legislative provisions and statements of desiderata, are of little use if they remain but principles on paper. The recent thrust of the United Nations Crime Prevention and Criminal Justice Programme has therefore been to further their application in actual practice. This also meshes with the strong emphasis placed on operational activities in this field, designed, among other things, to help countries translate the United Nations guidelines into reality, guidelines that are broad enough to lend themselves to incorporation in different legal and socio-economic systems and can be readily adapted to meet specific needs, but are often unfamiliar to the authorities, especially where there are linguistic barriers. The translation of the Declaration and the relevant standards into local languages and their widest possible dissemination is therefore a crucial step and one in which the professional community, educators, the media and other information providers can play a key role. Legislative and procedural criminal justice reforms under way in many countries provide a good opportunity for upgrading the position of the victim. There has also been a stated need for the establishment of victim

services in some countries and a raised consciousness of the plight of certain categories of victims, such as those of domestic violence, that has given rise to advocacy movements and remedial measures. Access to the Declaration and other relevant norms, including the recommendations on domestic violence, can strengthen the hand of those engaged in such efforts and mobilize others, including Governments, to embark on new initiatives.

2. Technical cooperation and assistance

Both aid providers and potential recipients must be made aware of the need to implement the Declaration and related standards and of ways of doing so. Increasingly, technical assistance is a give-and-take process that can best be accomplished through partnerships designed to increase self-reliance and involve both governmental and non-governmental actors. Technical cooperation among developing countries has shown considerable promise and, especially in victim-related issues, can draw on indigenous approaches that could be more widely applied. Joint “experimental innovation” by interested countries can also be undertaken, with built-in evaluation schemes, so that successful projects can be replicated and feasibility studies more scientifically pursued.

By including relevant proposals in their country programmes for United Nations Development Programme assistance, victim-related needs can be flagged and, if given sufficient priority by Governments in specific requests or as part of broader projects, can qualify for developmental aid.

Submissions for certain categories of victims can be made to specialized United Nations funds, for instance, to the United

Nations Development Fund for Women, for programmes to curtail domestic violence and help victimized women; to the United Nations Children’s Fund for programmes to reclaim street children and curtail child abuse; and to the United Nations Voluntary Fund for Victims of Torture for programmes on their behalf. The Voluntary Fund for Technical Cooperation in the Field of Human Rights and advisory services programmes can also be approached with pertinent requests aimed at improving human rights practices, including the observance of relevant United Nations norms.

Special emphasis might be placed on including a victim component in assistance provided to countries in transition eager to strengthen the rule of law and democratic institutions, especially where abuses have been prevalent in the past. Where massive victimization has taken place in ethnic conflicts or other forms of violence, assistance to the victims is an urgent task. It should include appropriate treatment of particularly traumatized and vulnerable segments of the population, such as children scarred by armed conflict, women subjected to rape as an instrument of war and the elderly. United Nations peacekeeping and peace-building operations, relief programmes and refugee assistance should have access to relevant expertise, and post-conflict reconstruction must take the plight of victims properly into account. The encouragement of truth and justice commissions, which have played a cathartic role in some countries, can have a salutary effect by establishing the facts, acknowledging that wrong has been done, identifying the perpetrators and providing victims and their families with a forum for expressing their grievances, even if they can rarely expect adequate redress.

Ways in which such redress could be provided need to be pursued and the application of the Declaration can provide at least a symbolic means of so doing. Some form of reparation, not necessarily costly, is a prerequisite for human restoration and national reconciliation, whose urgency is usually undeniable. By helping interested countries and

communities to devise appropriate arrangements for providing redress, the recovery process can be significantly enhanced.

Emergency assistance could also be provided, with crisis intervention being employed in acute situations threatening to escalate and create countless victims. Proposals to this effect have been made before, including longer-term conflict resolution and crisis intervention with “victim care squads” that could be sent to high-risk places. These proposals also deserve to be implemented in the context of “preventive diplomacy” and collaborative endeavours with other United Nations entities and interested partners.

While the United Nations Crime Prevention and Criminal Justice Programme itself has limited assistance capabilities, it can find means of providing such assistance, direct the requests received to the appropriate quarters and provide technical backstopping and support. It can furnish the services of one of its two interregional advisers, who are available for short-term missions to help countries articulate their requirements and formulate appropriate technical assistance requests. Follow-up efforts can then be made with both multilateral agencies and bilateral donors to help meet these requests, involving also other elements of the United Nations Crime Prevention and Criminal Justice Programme network, with its affiliated institutes and associated centres, and linkages to the professional community and victim advocacy groups. In spite of the manifest interest in developing victim services and otherwise assisting victims, specific requests have to be submitted for this purpose in the context also of the priorities of the United Nations Crime Prevention and Criminal Justice Programme and those of the funding agencies. The development of model projects for this purpose has been recommended and the United Nations expert group on implementation of the Declaration has provided an outline of such a possible project, which could be further elaborated and adjusted to special requirements. Realistic options have to be pursued in view of institutional and resource constraints, but these can stimulate adaptive approaches, such as the inclusion of diagnostic and treatment capabilities in primary health-care centres.

3. Education and training

A prime means of technical assistance is the provision of opportunities for training, so as to upgrade existing staff capabilities and create cadres of qualified personnel able to deal properly with victims. Wider education of the public and of the media should sensitize them to victim needs and reduce revictimization resulting from sensational publicity and ostracism. Education of the young and of different segments of civil society is necessary to build a climate of tolerance, especially where tension and hostility prevail. Law enforcement and correctional officers, the military and other agents of control must also be sensitized so that they refrain from excesses resulting in victimization. Clear indications of the limits of permissible actions are necessary and United Nations guidelines and codes of conduct, along with the Declaration, can help to clarify these expectations. Handy reference tools, such as the United Nations “Blue Book”, a set of criminal justice standards for peacekeeping police, which includes a section on victims, with excerpts from the Declaration, can facilitate this task.

More comprehensive guides for the police and the military, such as those developed by the Poom Foundation, are useful aids for trainers. The United Nations reports on victim issues can be included as background materials in interregional and regional seminars and training courses conducted in cooperation with Governments, the United Nations institutes and other organizations. Other teaching aids, such as core curricula for different types of caregivers, developed by the International Society for Traumatic Stress Studies, the syllabuses used in the international victimology courses and recommendations of regional

meetings, could supplement the *Handbook*. Comprehensive training courses on crime victims, drawing also on national and international experience in this regard (for example, in the application of the Manual for Practitioners on Domestic Violence), could be developed with interested partners, using the present *Handbook* and other adjuncts. A number of training initiatives have recently been taken by the United Nations Crime Prevention and Criminal Justice Programme in other areas (for example, for law enforcement, correctional and juvenile justice personnel); a training programme targeted at service providers for victims is long overdue.

A prime means of training is through field placements and personnel exchanges. The crime prevention and criminal justice fellowship programme has been initiated for selected officials from developing countries, nominated by their Governments, and could be used to develop victim-related expertise. This is also true of associate experts provided by some Governments and of United Nations interns with this area of interest, who could acquire desirable international experience.

4. Research and information

An empirical basis for policy development is necessary both nationally and internationally. Victim-related surveys and comparative studies can inform decision-making at all levels. The United Nations General Assembly, in its resolution 40/34, not only adopted the Declaration, but also called for periodic reports by Member States on the measures taken for its implementation. Three surveys have been carried out on this subject, the latest, submitted to the Commission on Crime Prevention and Criminal Justice, at its request, in spring 1996. It synthesized the replies of Governments to a United Nations questionnaire seeking to assess qualitative and quantitative progress on a range of aspects. While it cannot be said unequivocally that the progress reported by countries is due to the Declaration, and some may be due to the increased awareness of the problem of victims, or of certain kinds of victims (for example, of domestic violence and child abuse), it may be assumed that the Declaration has had at least some impact, but that this should be further strengthened through wider dissemination and practical measures for its application.

While the reliability of the responses is difficult to ascertain, it can be assumed that the process of responding to such a questionnaire has in itself a sensitizing effect—as indeed do all reporting requirements. This exercise can also help countries to identify obstacles to implementation and possibly seek help in overcoming them. The interest in United Nations assistance in this field, expressed in the replies, points to a felt need, which may have to be crystallized and translated into a concrete request or joint project design for a group of countries. Needs assessment missions—by the interregional advisers or special expert teams—can aim to establish the requirements and the range of desirable assistance.

Victimization surveys are an invaluable guide to the scope and prevalence of the problem, revealing the often large “dark figure” of unreported crimes. They are thus an important adjunct to the official crime statistics, especially in devising policies that also enhance the subjective sense of security and confidence of the populace in the operations of law enforcement and the administration of justice. National victimization surveys, especially where carried out periodically, have provided useful indications of system efficacy and of possible changes that need to be introduced. Comparative studies, such as the International Crime Victim Survey, carried out in a number of countries by the United Nations Interregional Crime and Justice Research Institute in cooperation with the Ministry of Justice of the Netherlands, hold particular promise. Its extension to cover additional forms of victimization, such as those inflicted by economic and organizational crime on individuals

and businesses, promises to increase further its value as a tool in the measurement of victimization and determination of the measures likely to reduce it. Its repetition over time to gauge trends and changes enhances its usefulness. It is thus a worthwhile adjunct to the periodical United Nations world crime surveys, which now include a section on transnational crime and strategies against it.

In addition to measuring victimization from traditional crimes (based on local laws), researchers, universities and institutes are encouraged to establish research methods appropriate for the specific measurement of victims of the abuse of power. Special considerations must be given to gathering macro-data that are both accurate and timely in parts of the world often disrupted by the aftermath of war and strife. These methods must also reflect standards that go beyond local laws, conventions and morals.

Information on positive experiences, as well as the problems encountered, can help to chart the future course. As recommended by the Economic and Social Council in its resolution 1996/14, on the application of the Declaration, a database is being established, with a repository of promising practices and a roster of agencies and experts that can be called upon for victim-related assistance in various disciplines. These also build on the directories of victim services and compensation programmes developed by other quarters, as well as the results of the United Nations survey of the implementation of the Declaration.

It is hoped that countries which have not yet done so will reply to the United Nations questionnaire or otherwise provide helpful information on their victim programmes, services, experts and publications, including scientific evaluations of the results achieved in the treatment of different kinds of victims. It is also hoped that the expanded clearing house facilities in this sphere will provide a multilingual global information network on victim-related matters that will facilitate both access to and feedback from policy makers, practitioners, researchers and victims themselves.

By interlinking the now widely dispersed sources of information in this field, the "state of the art" can be determined and the transfer of know-how enhanced. It is hoped that all categories of users will contribute to this effort. The United Nations Crime and Justice Information Network, the United Nations Online Crime and Justice Clearing House, the National Criminal Justice Reference Service, the institutes' clearing houses, the World Criminal Justice Library Network, the World Society of Victimology's reference facilities, the abstracts of the consortium of the Ministry of Justice of the Netherlands and other abstract series, national information resources and specialized databases can all be utilized for this purpose.

D. The role of non-governmental organizations

Non-governmental organizations (NGOs) concerned with different victim groups, such as children and women, gave the original impetus to the advocacy movements on behalf of these groups. Some have expanded their reach to a concern with rights and services for all crime victims, the National Organization for Victim Assistance in the United States being one example. Others have sought to expand the frontiers of knowledge in this sphere, which has increased substantially in recent years, especially with the scientific study of traumatic stress linked to victimization and its longer-term effects manifested in post-traumatic stress disorder, now a recognized psychiatric diagnostic category. Professional and scientific organizations have thus a major role to play in advancing both theory and practice in this complex field, as well as continuing to play an advocacy lead, not only nationally but also internationally.

The United Nations Crime Prevention and Criminal Justice Programme has a long-standing partnership with NGOs active in this field, which constitute a respected category of participants in the proceedings of the quinquennial congresses and other forums. The NGO alliances in the crime field, periodically convened in Vienna and New York, have also initiated relevant activities, such as a meeting on domestic violence and a working group on restorative justice. They have organized a number of ancillary meetings at the quinquennial congresses, as has the International Scientific and Professional Advisory Council.

The International Scientific and Professional Advisory Council has a technical committee on victimization prevention and the protection of victims, which organized expert group meetings (Oñate, Spain 1993, and Cairo, 1995) that made far-reaching recommendations that are yet to be implemented, as are those of the United Nations expert group meeting convened in Vienna in December 1995. The aim of the Council's International Conference on Migration and Crime (Courmayeur, Italy, October 1996) was to elucidate the relationship between these two phenomena and to reduce the victimization of migrants who are the frequent objects of discriminatory treatment and sometimes of outright violence. The curtailment of xenophobic acts through legislative and social means is a related aim, which could be fostered, *inter alia*, through multicultural initiatives and targeted attempts to reduce prejudice (see, for example, the National Bias Crimes Training Manual for law enforcement and victim assistance professionals, developed by the Educational Research Corporation in the United States).

The plenary and special sessions of the International Scientific and Professional Advisory Council bring together a large NGO constituency and members of the academic community to provide professional and scientific programme support. Its networking and information exchange capabilities are currently being expanded. Its work to date has been financed primarily by one country, Italy, and by a private foundation. Its base of support and operations needs to be further extended through outreach activities and operational projects sponsored by its membership. It is hoped that other organizations will join in this effort and that a critical mass can be achieved that can truly make a difference.

The increased leverage of NGOs in the United Nations system and their acknowledged role as discussion partners representing civil society and defenders of its vulnerable members gives them a special vantage point that can be built upon. Much of the progress achieved in the area of human rights and other major United Nations concerns is due to the initiative taken by international and national organizations, as in the case of the Declaration. Now that their role as effective partners in United Nations activities has been officially recognized and institutionalized in Economic and Social Council resolution 1996/31, which upgrades the arrangements for NGOs after they had remained largely unchanged for some three decades, the momentum should be kept up. Since organizations can now also submit project proposals to United Nations funding agencies, victim-focused projects should be more widely entertained and cogent requests submitted for further elaboration and implementation in the context of the United Nations Crime Prevention and Criminal Justice Programme, which is continuing to develop its collaborative activities.

E. Reducing victimization: towards a concerted approach

While much is being done internationally to alleviate the plight of different kinds of victims, all too often these efforts, whether governmental or non-governmental, are fragmented and carried out in relative isolation from each other, in spite of attempts at coordination. A more systemic approach would help to obtain a greater synergy and multiplier effect. This problem and the potential for concerted action is evident from even a

cursory perusal of recent programme overviews.¹ The victim perspective offers a common unifying theme, which, if more systematically handled, could yield major benefits for international action and alleviate the plight of victims the world over. It could also help to reduce victimization, especially if an effective early warning system and conflict resolution capability are in place. The right of “humanitarian intervention”, long debated, is increasingly being accepted, and proposals for a cadre of “white helmets” are being seriously entertained.

In both preventive efforts and the provision of remedies for victims, the United Nations Crime Prevention and Criminal Justice Programme has a lead role to play. The Declaration of Basic Principles for Victims of Crime and Abuse of Power contains essential provisions, which, applied in practice, could be a veritable Magna Carta for victims, as it has often been called. Ways of achieving this need to be further developed and the present *Handbook* should help significantly in this regard. A considerable amount of other information and action proposals are also available, including specific recommendations for implementation of the Declaration deriving from various expert meetings and national strategies reported in reply to United Nations surveys. Particularly relevant initiatives, such as the recommendations of the Special Rapporteur on victims of gross violations of human rights, would figure prominently in this undertaking and some joint follow-up could be envisaged. The division of responsibilities among the various entities of the United Nations system, with a coordinating mechanism to ensure complementarity and mutual support, could further rationalize the efforts. Much remains to be done and it can best be done collectively, drawing on the special competence and contributions of all parts of the United Nations system and affiliated organizations.

There is also scope for further initiatives to be taken at the international level as a necessary complement to the steps taken in pursuit of offenders by the establishment of international criminal jurisdictions. The matter of compensation to victims of crime and abuse of power is still in its embryonic stage. The United Nations Voluntary Fund for Victims of Torture has limited funds and other categories of victims are largely ignored. The Ninth Congress (Cairo, 1995) recommended that an international fund for crime victims be established. It has been proposed that the fund for victims of torture be expanded to include also other categories of victims (or their survivors), and that victims of transnational crimes be eligible for some kind of reparation. The provision of international means of recourse and redress where national channels are insufficient remains a key issue and one that deserves to be jointly pursued.

Recent jurisprudence has highlighted important precedents for transnational remedies for victimization. Particularly significant is the suit lodged against a Latin American Government by a torture victim in an American court for wrongs inflicted by a military predecessor Government, which resulted in a settlement (the first time a successor Government was sued in a foreign court). Measures to reduce the impunity of offenders by pursuing them across frontiers and taking them before an international instance are a *sine qua non* of justice, but so is proper reparation for the victims.

In the light of the financial constraints currently operating on the United Nations, international redress may seem to be mere wishful thinking, yet possibilities abound. The confiscated proceeds from drug trafficking have recently been contributed by a Member State (Luxembourg) to the United Nations International Drug Control Programme. Various means of mobilizing additional revenues for United Nations activities have been suggested, including a tax on international financial transactions, the waiving of a portion of countries' foreign debt for worthy purposes, the Tobin tax and other similar proposals. Some countries finance their victim compensation programmes from fines paid by offenders. This offers a

lesson internationally, especially with the vast sums accumulated by deposed dictators enjoying virtual immunity. The United Nations Crime Prevention and Criminal Justice Fund has to date received only a modest level of contributions, but could be utilized for pilot projects and other initiatives to benefit victims. A call for an international year or an international day for crime victims has so far gone unheeded. It could draw wider attention to the needs of victims and possibilities for action on their behalf. Contributions in cash or in kind, which can be earmarked for specific purposes, could be utilized for a whole range of productive activities, including those designed to pre-empt victimization (for example, the development of model school programmes on conflict resolution, in cooperation with the United Nations Educational, Scientific and Cultural Organization, modelled on those already used in some countries).

The United Nations International Year for Tolerance requires practical follow-up to have demonstrable impact. The process of bridge-building by former adversaries and grass-roots movements designed to promote greater empathy and mutual understanding can usefully be supported and serve as an example for others. There is vast potential for constructive action and a wealth of possible actors whose collaboration could be enlisted in global or local initiatives to reduce victimization and alleviate the plight of victims. It is hoped that this *Handbook* will not only trace possible paths which such future action could take but also serve as a stimulus for new initiatives.

The right of people to international protection is being increasingly recognized. It is now almost universally accepted that the safeguarding of human rights is the concern not only of individual States but of the entire international community. This includes Governments and intergovernmental organizations, as well as non-governmental organizations, which have been in the forefront of the defence of human and victim rights; the media, which have drawn world attention to ongoing abuses; and the public at large. The United Nations has a special responsibility and can provide the framework for concerted action, using all parts of the system, other international and regional entities, professional associations, scientific institutions and broad-based support. Much can be done to contain victimization and suffering if the political will, the expertise and the vision are there.

Annex I

Programme parameters

The definition of programme parameters should begin with an analysis of the gaps in and priorities of existing victim services, in order to identify what missing services are appropriate for the programme to implement immediately, which can be implemented in the future and which services are appropriate for other programmes. It should be determined whether there are criminal justice and social institutions that have an impact on victims in ways that will affect the structure of the programme. The following issues should be considered:

The parameters of the operation of the criminal justice system

- How does the criminal justice system work?
- How do privacy laws affect law enforcement and other criminal justice records?
- How are law enforcement reports made, what types of information are gathered and how can this information be used in victim assistance?
- What levels of discretion are afforded to criminal justice authorities in pursuing a

case?

- of a case?
- May victims be involved in a decision to terminate a case?
- What laws or policies govern the information a victim receives or the participation that he or she may be afforded?
- What happens at trial and how is the victim treated?
- Does the victim have an obligation or a right to be present? Are victims present only as witnesses or providers of evidence? Do victims have legal standing in a case?
- Who has the burden of proof?
- Are there sanctions against criminal justice personnel if victim rights are not observed?
- What informal, alternative systems of justice exist? If such systems exist, how are the interests of victims addressed?
- How do victim rights in a case compare to the rights of the accused?
- What are the alternatives to trial, for example, diversion programmes, plea agreements and the like?
- What happens at sentencing?
- How is restitution treated? Do victims have a right to claim damages? Do they have an opportunity to request restitution? Is restitution used as a penal sanction?
- What happens after case disposition?
- What happens when someone is on probation or when someone is being considered for parole or clemency?
- Are there special victim services targeting criminal justice staff who are victimized?
- What are the differences between the adult criminal justice system and the juvenile or other parallel systems of justice?
- Do the criminal justice professionals receive special training on victim issues, violence prevention, substance abuse and cross-cultural service delivery?

Annex I. Programme parameters

The parameters of compensation

- How is compensation to victims provided?
- Is compensation effected solely through claims for restitution?
- Is there a State compensation programme?
- What benefits does a compensation programme provide?
- What are the eligibility requirements?
- How do state compensation, restitution and private insurance work together?
- What kind of losses might a victim suffer that would not be compensated?
- Is there a mechanism to establish compensation for victims of abuse of power?

The parameters of mental health services

- Are mental health services provided in the jurisdiction?

If so:

- Are there 24-hour crisis numbers for persons experiencing trauma?
- Are there 24-hour walk-in services?
- Are community mental health centres available, and who do they serve? What are the fees?
- What resources are available among mental health professionals?
- How are referrals made to mental health professionals or the community mental health centre?
- Are mental health professionals trained in basic victim issues, violence prevention and cross-cultural service delivery?

The parameters of substance abuse treatment

- How are services provided to substance abusers in the jurisdiction?
- Are 24-hour crisis services available?
- Are the services of residential treatment centres available at no cost to the abuser? If so, how many beds are available at any one time?
- What is the philosophy of substance abuse treatment?
- What is the range of substance abuse treatment services?
- How are referrals made to treatment facilities?
- Do the substance abuse professionals receive special training in victim issues and providing cross-cultural service delivery?
- What substance abuse prevention programmes exist in the jurisdiction?
- Are there grass-roots or community-based organizations that are fighting drugs and substance abuse? If so, where do they exist?
- What substance abuse prevention programmes are available, for example, school-based, law-enforcement-driven, churchbased?

- What elements of substance abuse prevention are addressed?
- Are those involved in substance abuse prevention trained in dealing with victim issues and providing cross-cultural service delivery?

The parameters of medical services

- What kind of services are provided by medical professionals and institutions for victims?
- Are there specialized services for survivors of homicide, catastrophic physical injury, sexual assault or family violence that are offered in local hospitals?
- Have physicians established any special protocols for identifying and responding to family violence victims, victims of child sexual or physical abuse, elderly and disabled victims and victims of sexual assault?
- How are medical emergencies responded to?
- Are there different treatment protocols for dealing with victims who are also substance abusers?
- Do hospital personnel receive special training in responding to victims and substance abusers, and in providing crosscultural service delivery?
- Are there indigenous or native healers in the jurisdiction who work with victims?

The parameters of the prevention of victimization

- What victimization prevention programmes exist in the jurisdiction?
- Are there grass-roots or community-based organizations that are working to prevent violence? If so, where do they exist?
- Is there a multidisciplinary, community-wide task force addressing victimization prevention strategies?
- What victimization prevention programmes are available, for example, school-based, law-enforcement-driven, churchbased?
- What elements of victimization are addressed?
- Are those involved in victimization prevention trained in dealing with victim issues and providing cross-cultural service delivery?
- Are there international monitors that can respond to prevent cases of abuse-of-power victimization?

The parameters of other services

- What other victim services are currently available in the jurisdiction?
- Who do they serve?
- What hours are they available?
- What types of service do they provide?
- Are there eligibility requirements?
- What services need to be provided as part of a comprehensive network?
- What information do they collect and how can this be used to assist victims?

The parameters of the educational system

- Are there special services, curricula, or programmes in the school systems to address victimization, victimization prevention, substance abuse and cross-cultural issues?
- Do the schools involve law enforcement officers in educational programmes concerning substance abuse that are designed for children?
- Are special classes or presentations available for children and adolescents regarding sexual assault, family violence, child abuse and the like?
- Are there special classes dealing with anger management or conflict resolution?
- Are there victim assistance programmes for school staff or victims of school violence?
- Are teachers and counsellors trained in dealing with victims?

Annex I. Programme parameters

The parameters of spiritual support

- Who are the clergy, religious or spiritual leaders in the jurisdiction?
- How do they interact with victims?
- How does their leadership affect victim behaviour and the treatment of victims in the community?
- What sources of support for victims do they offer?

The parameters of social security

- How is social security organized in the jurisdiction?
- Are medical costs automatically covered by a national health service?
- Is loss of income due to victimization covered by public funds or by collective insurance?
- Do the financial costs of permanent disability to work due to a result of a crime have to be borne by the victim?
- Is there public financial support for the next of kin of homicide victims?

The parameters of private insurance

- What is the level of private insurance in the jurisdiction?
- Are most victims insured against the financial losses due to frequently occurring crimes such as theft, burglary, arson, etc.?
- Is there a legal obligation to have private insurance for certain risks?

The parameters of informal social support

- Are there family services, cultural groups, indigenous kinship groups or other social support networks that provide additional assistance to victims?

Deciding on the focus of the services to be provided by the programme

- What services are particularly appropriate for the programme?
- On the basis of resources in the jurisdiction, what services can be implemented immediately, what services can be implemented one year from now and what services can be implemented at an unspecified time in the future?
- What services are particularly appropriate for other agencies and which agencies can provide them?

Anticipating issues arising in implementation

- What data will be accessible?
- What cooperation can be expected from other agencies?
- What type of staff will be involved in the programme (paid and unpaid)?
- What kinds of financial resources can be expected?

- Who may oppose the institution of victim assistance?
- Does the location of the programme assist or limit the implementation of services?
- Do or will programme logistics assist or limit the implementation of services?

Deciding on the scope of victimization to be covered and on eligibility

- Will the services be restricted to a particular type of victim such as those who have suffered sexual assault, spouse abuse or child abuse, or survivors of homicide?
- Will the services be restricted to a certain number of victims?
- Will the services be restricted to victims who meet certain eligibility requirements such as age, geographical location or income level?
- Do international organizations provide eligibility for abuse-of-power victims when not covered by national laws and policies?

- Since many victims are not aware of victim services or may not seek them for other reasons, what types of outreach programmes can be effective?

Identifying how victims will be provided access to the programme

- Will service providers be called directly by victims?
- Will service providers be called by law enforcement agencies and hospitals to the crime scene or to the location of the victim?
- Will service providers review law enforcement reports and contact victims to offer services?
- How can service providers work with other agencies in order to increase referrals or victim contacts?

Analysing how other agencies can provide services for which the programme is not equipped

- Review the service needs that are not being met;
- Meet with other agencies in order to discuss how they might be able to help meet those service needs;
- Work with other agencies in order to promote additional services and to develop an active referral network for services;
- Avoid duplication of services or efforts.

The results of the above analysis of programme parameters should be summarized briefly in order to outline the strengths and weaknesses of the jurisdiction's response to victims and to develop a clearly written programme description that addresses programme purposes and the immediate goals of services and strategies for service and identifies the client population to be served by the programme as well as the strategies for inter-agency cooperation.

Annex II. Suggested resources**United Nations Crime Prevention and Criminal Justice Programme network**

<p>United Nations Interregional Crime and Justice Research Institute Via Giulia 52 00186 Rome, Italy http://www.unicri.it</p> <p>Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders 1-26 Harumi-cho Fuchu, Tokyo, Japan 183 http://www.unafei.or.jp</p> <p>Latin American Institute for the Prevention of Crime and the Treatment of Offenders 10071-1000 San José, Costa Rica http://www.ilanud.or.cr</p> <p>European Institute for Crime Prevention and Control, affiliated with the United Nations P. O. Box 161 Kasarmikatu 46-48, 5th floor FIN-00131 Helsinki, Finland http://www.rm.fi/om/heuni</p> <p>African Institute for the Prevention of Crime and the Treatment of Offenders P. O. Box 10590 Kampala, Uganda http://www.unojust.org/unafri</p> <p>Australian Institute of Criminology G.P.O. Box 2944 Canberra 2601, Australia http://www.aic.gov.au</p> <p>International Centre for Criminal Law Reform and Criminal Justice Policy 1822 East Mall Vancouver, BC, Canada V6T 1Z1 http://www.law.ubc.ca/centres</p>	<p>International Institute for Higher Studies in Criminal Sciences Via Agati 12 96100 Siracusa, Italy Tel.: (+39 931) 35611 Fax: (+39) 931 442605</p> <p>Naif Arab Academy for Security Sciences P. O. Box 6830 Riyadh 11452, Saudi Arabia http://www.unojust.org/NAASS/</p> <p>National Institute of Justice United States Department of Justice 8107th Street, Suite 700 Washington, D.C., 20531, United States of America http://www.ncjrs.org/unojust</p> <p>Raoul Wallenberg Institute of Human Rights and Humanitarian Law P. O. Box 1155 Stora Gråbrödersg, 17B SE-22105 Lund, Sweden http://www ldc.lu.se/raoul</p> <p>International Centre for the Prevention of Crime 507, Place d'Armes Bureau 2100 Montreal, Quebec, Canada H2Y 2W8 http://www.crime-prevention.intl.org/</p> <p>International Scientific and Professional Advisory Council Centro Nazionale di Prevenzione e Difesa Sociale Palazzo Comunale delle Scienze Sociali Piazza Castello 3 I-20121 Milan, Italy http://www.ispac-italy.org</p>
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International/National Victim Assistance Organizations**International**

Centre for International Crime Prevention
Office for Drug Control and Crime Prevention
of the United Nations Secretariat
P.O. Box 500
A-1400, Vienna, Austria
Tel.: (+431) 26060 4269 Fax: (+431) 26060 5898

International Federation of Red Cross
and
Red Crescent Societies
19 Avenue de la Paix
CH-1202 Geneva, Switzerland
Tel.: (+4122) 734 6001

Office of the United Nations High Commissioner
for Refugees
Case Postal 2500
CH-1211 Geneva 2, Switzerland
Tel.: (+4122) 739 8111

European Forum for Victim Services
Cranmer House
39 Brixton Road
London SW9 6DZ, United Kingdom
Tel.: (+44 171) 735 9166
Fax: (+44 171) 582 5712

National

Association québécoise Plaidoyer-
Victimes
4305 Rue d'Iberville
Bureau 201
Montreal, Quebec,
Canada H2H 2L5 Tel.: (+514) 526 9037 Fax:
(+514) 526 9951

Cordoba Victim Services
Mendoza 131 (5.000) Cordoba, Argentina
Fax: 54-51-215-192 or
54-51-603325

Crime Victims Foundation
P.O. Box 72020 Victoria Island
Lagos, Nigeria
Tel./Fax: (+2341) 824688

Institut national d'aide aux victimes et de
médiation
4-14 rue Ferrus
75014 Paris,
France
Tel.: (+45) 88 19 00
E-mail: inavem@francemultimedia.fr

National Organization for
Victim Assistance
1757 Park Road, NW
Washington, D.C., 20010,
United States of America
Tel.: (+1 202) 232-6682

Office for Victims of Crime
U.S. Department of Justice
8107th Street NW
Washington, D.C., 20531, United
States of America Tel.: (+1 202) 307-
5983

Procedures and Victims Unit
Home Office
50 Queen Anne's Gate
London SW1H 9AT, United Kingdom
Tel.: (+44 171) 273 4592
Fax: (+44 171) 273 2972

Victims Referral and Assistance
Service
(VRAS)
Level 5, 235 Queen Street
GPO Box 4349QQ
Melbourne, Victoria 3001, Australia
DX 210641
Tel.: (+61 3) 9603 9797

Annex II. Suggested resources

The following is a sampling of Web sites that contain information on victim issues. Many of these sites provide links to other relevant sites.

Amnesty International http://www.amnesty.org	United Nations Crime and Justice Information Network http://www.ifs.univie.ac.at/~uncjin/uncjin.html
Bureau of Justice Statistics International Justice Statistics http://www.ojp.usdoj.gov/bjs/ijs.htm	United Nations Online Crime and Justice Clearinghouse http://www.ncjrs.org/unojust
International Association of Chiefs of Police http://www.amdahl.com/ext/iacp/	United Nations International Drug Control Programme http://www.undcp.org/index.html
International Association of Correctional Officers http://www.acsp.uic.edu/iaco/about.htm	United Nations Crime Prevention and Criminal Justice Division http://www.ifs.univie.ac.at/~pr2gq1/uno
International Committee of the Red Cross http://www.icrc.ch	United Nations Crime Prevention and Criminal Justice Programme network institutes http://www.unojust.org
Minnesota Center Against Violence and Abuse http://www.mincava.umn.edu	Victim Assistance Online: A Comprehensive Resource Centre http://www.vaonline.org/
National Organization for Victim Assistance http://www.try-nova.org/	Violence Against Women Grants Office United States Department of Justice http://www.ojp.usdoj.gov/VAWGO
National Criminal Justice Reference Service United States Department of Justice http://www.ncjrs.org/	World Conference on Family Violence, Singapore http://www.wcfv.org/main.asp
Office for Victims of Crime United States Department of Justice http://www.ojp.usdoj.gov/ovc/	World Society of Victimology http://www.victimology.nl/
12th World Congress on Criminology http://www.kic.re.kr/icc-e.htm	
Truth and Reconciliation Commission http://www.truth.org.za/	

Annex III

Key United Nations documents on victims of crime and abuse of power

Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 3: "Victims of crime" (A/CONF.121/IPM/4)

Survey of redress, assistance, restitution and compensation for victims of crime: report of the Secretary-General to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.121/4)

Victims of crime: working paper prepared by the Secretariat for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.121/6)

The situation of women as victims of crime: report of the Secretary-General to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.121/16)

Measures to implement the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: report of the Secretary-General (E/AC.57/1988/3)

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: report of the Secretary-General (E/AC.57/1990/3)

Domestic violence: report of the Secretary-General to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/17)

Guide for Practitioners regarding the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: note by the Secretariat to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/20)

Strategies for Confronting Domestic Violence: A Resource Manual (ST/CSDHA/20)

Crime prevention strategies, in particular as related to crimes in urban areas and juvenile and violent criminality, including the question of victims: assessment and new perspectives: working paper prepared by the Secretariat for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.169/7)

Children as victims and perpetrators of crime: report of the Secretary-General (E/CN.15/1996/10)

Use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: addendum to the report of the Secretary-General (E/CN.15/1996/16/Add.3)

Recommendations of the Expert Group Meeting on Victims of Crime and Abuse of Power in the International Setting: addendum to the report of the Secretary-General (E/CN.15/1996/16/Add.5)

Use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: note by the Secretary-General (E/CN.15/1997/16 and Add.1)

Annex IV

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power¹

A. Victims of crime

1. “Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

4. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

5. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.
6. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.
7. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.
8. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

9. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:
 - (a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;
 - (b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.
10. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

11. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.
12. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.
13. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

14. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. Victims of abuse of power

15. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.
16. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.
17. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.
18. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

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UNIT-IV
UNITED NATION CONGRESSES

**Geneva Convention relative to the Treatment of Prisoners of War, 75 U.N.T.S.
135, entered into force Oct. 21, 1950.**

PART I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;
- (c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.
2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:
 - (a) That of being commanded by a person responsible for his subordinates;
 - (b) That of having a fixed distinctive sign recognizable at a distance;
 - (c) That of carrying arms openly;
 - (d) That of conducting their operations in accordance with the laws and customs of war.
3. Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.
4. Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.
5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.
6. Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

1. Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.
2. The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of

Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

Article 5

The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

Article 6

In addition to the agreements expressly provided for in Articles 10, 23, 28, 33, 60, 65, 66, 67, 72, 73, 75, 109, 110, 118, 119, 122 and 132, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Article 9

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, -propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

PART II**GENERAL PROTECTION OF PRISONERS OF WAR*****Article 12***

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war

were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

Article 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity

Measures of reprisal against prisoners of war are prohibited.

Article 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

Article 15

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Article 16

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

PART III

CAPTIVITY
SECTION I
BEGINNING OF CAPTIVITY

Article 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. AS far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

Article 18

All effects and articles of personal use, except arms, horses, military equipment and military documents shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise the sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Article 19

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

Article 20

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as

soon as possible a list of the prisoners of war who are evacuated. .;

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

SECTION 11

INTERNMENT OF PRISONERS OF WAR

Chapter I

GENERAL OBSERVATIONS

Article 21

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on

parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

Article 22

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular

cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

Article 23

No prisoner of war may at any time be sent to or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

Article 24

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

Chapter II

QUARTERS FOOD AND CLOTHING OF PRISONERS OF WAR

Article 25

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire. In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

Article 26

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners. The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed. Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

Article 27

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Article 28

Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices.

The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Chapter III

HYGIENE AND MEDICAL ATTENTION

Article 29

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Article 30

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation. Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

Article 31

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

Article 32

Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 49.

Chapter IV

**MEDICAL PERSONNEL AND CHAPLAINS
RETAINED TO ASSIST PRISONERS OF WAR**

Article 33

Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious ministrations to prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the

control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

(a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article 26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

Chapter V

RELIGIOUS INTELLECTUAL AND PHYSICAL ACTIVITIES

Article 34

Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

Article 35

Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

Article 36

Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

Article 37

When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners, or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of

view, shall be appointed, at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power, shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

Article 38

While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

Chapter VI

DISCIPLINE

Article 39

Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

Article 40

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

Article 41

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

Article 42

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Chapter VII**RANK OF PRISONERS OF WAR****Article 43**

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

Article 44

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

Article 45

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

Chapter VIII**TRANSFER OF PRISONERS OF WAR AFTER THEIR ARRIVAL IN CAMP****Article 46**

The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

Article 47

Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or if they are exposed to greater risks by remaining on the spot than by being transferred.

Article 48

In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

SECTION 111

LABOUR OF PRISONERS OF WAR

Article 49

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

Article 50

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) Agriculture;
- (b) Industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) Transport and handling of stores which are not military in character or purpose;
- (d) Commercial business, and arts and crafts;
- (e) Domestic service;
- (f) Public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

Article 51

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

Article 52

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

Article 53

The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece-work are employed, the length of the working period shall not be rendered excessive thereby.

Article 54

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

Article 55

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

Article 56

The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

Article 57

The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the

commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war. Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

SECTION IV

FINANCIAL RESOURCES OF PRISONERS OF WAR

Article 58

Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

Article 59

Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate accounts, in accordance with the provisions of Article 64 of the present Section. The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

Article 60

The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I: Prisoners ranking below sergeant: eight Swiss francs.

Category II: Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category m: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV: Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V: General officers or prisoners of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) Shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) May temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

Article 61

The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

Article 62

Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners, representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

Article 63

Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependants shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulations in Annex V of the present Convention.

Article 64

The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

1. The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

2. The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

Article 65

Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

Article 66

On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

Article 67

Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay, as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

Article 68

Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects, monies or valuables impounded by the Detaining Power under

Article 18 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the

reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article 123.

SECTION V

RELATIONS OF PRISONERS OF WAR WITH THE EXTERIOR

Article 69

Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

Article 70

Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

Article 71

Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners of war's accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages. Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

Article 72

Prisoners of war shall be allowed to receive by post or by any other means individual parcels or collective shipments containing, in particular, foodstuffs, clothing, medical supplies and articles of a religious, educational or recreational character which may meet their needs, including books, devotional articles, scientific equipment, examination papers, musical instruments, sports outfits and materials allowing prisoners of war to pursue their studies or their cultural activities.

Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

The only limits which may be placed on these shipments shall be those proposed by the Protecting Power in the interest of the prisoners themselves, or by the International Committee of the Red Cross or any other organization giving assistance to the prisoners, in respect of their own shipments only, on account of exceptional strain on transport or communications.

The conditions for the sending of individual parcels and collective relief shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the prisoners of relief supplies. Books may not be included in parcels of clothing and foodstuffs. Medical supplies shall, as a rule, be sent in collective parcels.

Article 73

In the absence of special agreements between the Powers concerned on the conditions for the receipt and distribution of collective relief shipments, the rules and regulations concerning collective shipments, which are annexed to the present Convention, shall be applied.

The special agreements referred to above shall in no case restrict the right of prisoners' representatives to take possession of collective relief shipments intended for prisoners of war, to proceed to their distribution or to dispose of them in the interest of the prisoners.

Nor shall such agreements restrict the right of representatives of the Protecting Power, the International Committee of the Red Cross or any other organization giving assistance to prisoners of war and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Article 74

All relief shipments for prisoners of war shall be exempt from import, customs and other dues.

Correspondence, relief shipments and authorized remittances of money addressed to prisoners of war or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 122 and the Central Prisoners of War Agency provided for in Article 123, shall be exempt from any postal dues, both in the countries of origin and destination, and in intermediate countries.

If relief shipments intended for prisoners of war cannot be sent through the post office by reason of weight or for any other cause, the cost of transportation shall be borne by the Detaining Power in all the territories under its control. The other Powers party to the Convention shall bear the cost of transport in their respective territories.

In the absence of special agreements between the Parties concerned, the costs connected with transport of such shipments, other than costs covered by the above exemption, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the rates charged for telegrams sent by prisoners of war, or addressed to them.

Article 75

Should military operations prevent the Powers concerned from fulfilling their obligation to assure the transport of the shipments referred to in Articles 70, 71, 72 and 77, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake to ensure the conveyance of such shipments by suitable means (railway wagons, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them

with such transport and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) Correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 123 and the National Bureaux referred to in Article 122;

(b) Correspondence and reports relating to prisoners of war which the Protecting Powers, the International Committee of the Red Cross or any other body assisting the prisoners, exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport, if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

In the absence of special agreements, the costs occasioned by the use of such means of transport shall be borne proportionally by the Parties to the conflict whose nationals are benefited thereby.

Article 76

The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Article 77

The Detaining Powers shall provide all facilities for the transmission, through the Protecting Power or the Central Prisoners of War Agency provided for in Article 123, of instruments, papers or documents intended for prisoners of war or despatched by them, especially powers of attorney and wills.

In all cases they shall facilitate the preparation and execution of such documents on behalf of prisoners of war; in particular, they shall allow them to consult a lawyer and shall take what measures are necessary for the authentication of their signatures.

SECTION VI

RELATIONS BETWEEN PRISONERS OF WAR AND THE AUTHORITIES

Chapter I

COMPLAINTS OF PRISONERS OF WAR RESPECTING THE CONDITIONS OF CAPTIVITY

Article 78

Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article 71. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

Chapter II

PRISONER OF WAR REPRESENTATIVES

Article 79

In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

Article 80

Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the

province of the prisoners' representative, in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

Article 81

Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspection of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prisoners of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and with the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor considered as forming a part of the quota mentioned in Article 7 1.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

Chapter III

PENAL AND DISCIPLINARY SANCTIONS

I. General provisions

Article 82

A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power; the Detaining Power shall

be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

Article 83

In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

Article 84

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article 105.

Article 85

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

Article 86

No prisoner of war may be punished more than once for the same act, or on the same charge.

Article 87

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in

respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

Article 88

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. Disciplinary sanctions

Article 89

The disciplinary punishments applicable to prisoners of war are the following:

1. A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.
2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
3. Fatigue duties not exceeding two hours daily.
4. Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

Article 90

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

Article 91

The escape of a prisoner of war shall be deemed to have succeeded when:

1. He has joined the armed forces of the Power on which he depends, or those of an allied Power;
2. He has left the territory under the control of the Detaining Power, or of an ally of the said Power;
3. He has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured, shall not be liable to any punishment in respect of their previous escape.

Article 92

A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article 91 shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article 88, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

Article 93

Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article 83, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

Article 94

If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in Article 122, provided notification of his escape has been made.

Article 95

A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles 97 and 98 of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

Article 96

Acts which constitute offences against discipline shall be investigated immediately. Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as

camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to inspection by representatives of the Protecting Power.

Article 97

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

Article 98

A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative, who will hand over to the infirmary the perishable goods contained in such parcels.

m. Judicial proceedings

Article 99

No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

Article 100

Prisoners of war and the Protecting Powers shall be informed as soon as possible of the offences which are punishable by the death sentence under the laws of the Detaining Power.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power upon which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article 87, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

Article 101

If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

Article 102

A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

Article 103

Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles 97 and 98 of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

Article 104

In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

1. Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any;
2. Place of internment or confinement;
3. Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable;
4. Designation of the court which will try the case, like wise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the latter cannot take place and must be adjourned.

Article 105

The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held in camera in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

Article 106

Every prisoner of war shall have, in the same manner as the members of the armed forces of the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of the sentence or the reopening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

Article 107

Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right of appeal with a view to the quashing of the sentence or the reopening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced on a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

1. The precise wording of the finding and sentence;

2. A summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;

3. Notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing subparagraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power. Article 108 Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles 78 and 126 of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

PART IV

TERMINATION OF CAPTIVITY

SECTION I

DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

Article 109

Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article, may be repatriated against his will during hostilities.

Article 110

The following shall be repatriated direct:

1. Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.
2. Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.
3. Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

1. Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.

2. Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfil in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

1. Those whose state of health has deteriorated so as to fulfil the conditions laid down for direct repatriation;
2. Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

Article 111

The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers, shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

Article 112

Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with the provisions of the Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

Article 113

Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in the foregoing Article:

1. Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.
2. Wounded and sick proposed by their prisoners' representative.
3. Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

Article 114

Prisoners of war who meet with accidents shall, unless the injury is self-inflicted, have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

Article 115

No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

Article 116

The costs of repatriating prisoners of war or of transporting them to a neutral country shall be borne, from the frontiers of the Detaining Power, by the Power on which the said prisoners depend.

Article 117

No repatriated person may be employed on active military service.

SECTION 11

RELEASE AND REPATRIATION OF PRISONERS OF WAR
AT THE CLOSE OF HOSTILITIES**Article 118**

Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(a) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(b) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

Article 119

Repatriation shall be effected in conditions similar to those laid down in Articles 46 to 48 inclusive of the present Convention for the transfer of prisoners of war, having regard to the provisions of Article 118 and to those of the following paragraphs.

On repatriation, any articles of value impounded from prisoners of war under Article 18, and any foreign currency which has not been converted into the currency of the Detaining Power, shall be restored to them. Articles of value and foreign currency which, for any reason

whatever, are not restored to prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article 122.

Prisoners of war shall be allowed to take with them their personal effects, and any correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of repatriation so require, to what each prisoner can reasonably carry. Each prisoner shall in all cases be authorized to carry at least twenty-five kilograms.

The other personal effects of the repatriated prisoner shall be left in the charge of the Detaining Power which shall have them forwarded to him as soon as it has concluded an agreement to this effect, regulating the conditions of transport and the payment of the costs involved, with the Power on which the prisoner depends.

Prisoners of war against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if necessary, until the completion of the punishment. The same shall apply to, prisoners of war already convicted for an indictable offence.

Parties to the conflict shall communicate to each other the names of any prisoners of war who are detained until the end of the proceedings or until punishment has been completed.

By agreement between the Parties to the conflict, commissions shall be established for the purpose of searching for dispersed prisoners of war and of assuring their repatriation with the least possible delay.

SECTION 111

DEATH OF PRISONERS OF WAR

Article 120

Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoner of War Information Bureau established in accordance with Article 122. The death certificates or certified lists shall show particulars of identity as set out in the third paragraph of Article 17, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In

case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of

graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such prisoners of war depended. Responsibility for the care of these graves and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

Article 121

Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

PART V

**INFORMATION BUREAUX AND RELIEF SOCIETIES
FOR PRISONERS OF WAR**

Article 122

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article 4, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article 4, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned, through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article 123.

This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article 17, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communications made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the person to whom the articles of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

Article 123

A Central Prisoners of War Information Agency shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency.

The function of the Agency shall be to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend. It shall receive from the Parties to the conflict all facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross, or of the relief Societies provided for in Article 125.

Article 124

The national Information Bureaux and the Central Information Agency shall enjoy free postage for mail, likewise all the exemptions provided for in Article 74, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

Article 125

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organization assisting prisoners of war, shall receive from the said Powers, for themselves and their duly accredited agents, all necessary facilities for visiting the prisoners, distributing relief supplies and material, from any source, intended for religious, educational or recreative purposes, and for assisting them in organizing their leisure time within the camps. Such societies or organizations may be constituted in the territory of the Detaining Power or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the effective operation of adequate relief to all prisoners of war.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

As soon as relief supplies or material intended for the above mentioned purposes are handed over to prisoners of war, or very shortly afterwards, receipts for each consignment, signed by the prisoners' representative, shall be forwarded to the relief society or organization making the shipment. At the same time, receipts for these consignments shall be supplied by the administrative authorities responsible for guarding the prisoners.

PART VI

EXECUTION OF THE CONVENTION

SECTION I

GENERAL PROVISIONS

Article 126

Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises occupied by prisoners of war; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary, that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

Article 127

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.

Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

Article 128

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Article 129

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the present Convention.

Article 130

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

Article 131

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 132

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION 11

FINAL PROVISIONS

Article 133

The present Convention is established in English and in French. Both texts are equally authentic. The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 134

The present Convention replaces the Convention of 27 July 1929, in relations between the High Contracting Parties.

Article 135

In the relations between the Powers which are bound by The Hague Convention respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and which are parties to the present Convention, this last Convention shall be complementary to Chapter II of the Regulations annexed to the above-mentioned Conventions of The Hague.

Article 136

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Convention of July 27, 1929.

Article 137 *The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.*

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 138

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 139

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 140

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 141

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 142

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 143

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

What are Human Rights?

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

International Human Rights Law

International human rights law lays down the obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

One of the great achievements of the United Nations is the creation of a comprehensive body of human rights law—a universal and internationally protected code to which all nations can subscribe and all people aspire. The United Nations has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and to assist states in carrying out their responsibilities.

The foundations of this body of law are the Charter of the United Nations and the Universal Declaration of Human Rights, adopted by the General Assembly in 1945 and 1948, respectively. Since then, the United Nations has gradually expanded human rights law to encompass specific standards for women, children, persons with disabilities, minorities and other vulnerable groups, who now possess rights that protect them from discrimination that had long been common in many societies.

The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 by General Assembly resolution 217 A (III) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. Since its adoption in 1948, the UDHR has been translated into more than 501 languages – the most translated document in the world - and has inspired the constitutions of many newly independent States and many new democracies. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols (on the complaints procedure and on the death penalty) and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, form the so-called International Bill of Human Rights.

Human Rights Council

The Human Rights Council, established on 15 March 2006 by the General Assembly and reporting directly to it, replaced the 60-year-old UN Commission on Human Rights as the key UN intergovernmental body responsible for human rights. The Council is made up of 47 State representatives and is tasked with strengthening the promotion and protection of human rights around the globe by addressing situations of human rights violations and making recommendations on them, including responding to human rights emergencies.

The most innovative feature of the Human Rights Council is the Universal Periodic Review. This unique mechanism involves a review of the human rights records of all 192 UN member states once every four years. The Review is a cooperative, state-driven process, under the auspices of the Council, which provides the opportunity for each state to present measures taken and challenges to be met to improve the human rights situation in their country and to

meet their international obligations. The Review is designed to ensure universality and equality of treatment for every country.

Human Rights of Prisoners: World perspective

The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration of Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

Human Rights of Prisoners in India: Current Scenario and Violation

The practice of torture in prison has been widespread and predominant in India since time immemorial. Unchallenged and unrestricted, it has become a 'normal' and 'legitimate' practice all over. In the name of investigating crimes, extracting confessions and punishing individuals by the law enforcement agencies, torture is inflicted not only upon the accused but also on bona fide petitioners, complainants or informants amounting to cruel, inhuman, barbaric and degrading treatment, grossly derogatory to the individual dignity of the human person. Torture is also inflicted on women in the form of custodial rape, molestation and other forms of sexual torture.

The Hon'ble Supreme Court of India in the case of *Joginder Kumar v. State of UP and Ors* said that the "the quality of a nation's civilization can be largely measured by the methods it uses in the enforcement of criminal law. The horizon of human rights is expanding. At the same time, the crime rate is also increasing. The court has been receiving complaints about violation of human rights because of indiscriminate arrests. A realistic approach should be made in this direction. The law of arrest is one of balancing individual rights, liberties and privileges, on one hand and individual duties obligations and responsibilities on the other; of weighing and balancing the rights, liberties and privileges of the single individual and those of individuals collectively; of simply deciding what is wanted and where to put the weight and the emphasis; of deciding which comes first – the criminal or society, the law violator or the law abider."

Article 21 of the Constitution guarantees the right of personal liberty and thereby prohibits any inhuman, cruel or degrading treatment to any person whether he is a national or foreigner. No person shall be deprived of his or personal liberty except according to procedure established by law. This Article also protects people for being retrospectively punished for activities which were given a status of crime after they committed the act.

The Hon'ble Supreme Court of India had occasion to deal with the rights of prisoners in the case of *Sunil Batra v. Delhi Administration*. In that decision, this Court gave a very obvious answer to the question whether prisoners are persons and whether they are entitled to fundamental rights while in custody, although there may be a shrinkage in the fundamental rights. This is what this Court had to say in this regard:

"Are 'prisoners' persons? Yes, of course. To answer in the negative is to convict the nation and the Constitution of dehumanization and to repudiate the world legal order, which now recognizes rights of prisoners in the International Covenant on Prisoners' Rights to which India has signed assent. In *Batra* case, the Hon'ble Court has rejected the hands-off doctrine and it has been ruled that fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration.

To handcuff is to hoop harshly and to punish humiliatingly. The minimum freedom of movement, under which a detainee is entitled to under Article 19, cannot be cut down by the

application of handcuffs. Handcuffs must be the last resort as there are other ways for ensuring security.

Article 14; gives the right to equality and equal protection also to the prisoners. If any excesses committed on a prisoner, by the police is considered as a violation of rights and it warrants the attention of the legislature and judiciary. The right to meet friends, relatives and lawyers are provided under article 14 and article 21. Such rights are pretty reasonable and non-arbitrary. Even prison regulations recognize the right of prisoners to have interview with a legal adviser necessary, in a reasonable manner. Right to free legal aid is also provided under this article 14 and 21.

UNIT-V
HUMAN RIGHT VIOLATIONS

PRISONERS' RIGHTS: SOME LANDMARK JUDGEMENTS

The past decade has witnessed an increasing consciousness about the desirability of prison reforms, It is now being recognized that a reformatory philosophy and a rehabilitative strategy must form a part of prison justice.

The role of the Supreme Court in the past five years in introducing jail reforms has been commendable. Its quest for prison justice is probably a result of its attempt to revive liberty after extinguishing it in the Habeas Corpus case. In fact, the Supreme Court had commented in that case during the emergency that the treatment meted out to the detainees was almost maternal. The Supreme Court carried the ratio of the habeas Corpus case (ADM Jabalpur Vs. Shiv Kant Shukla) that Article 21 is the sole repository of life and liberty and during the emergency when liberty is suspended, due to the Presidential proclamation suspending Article 21, to the Prison conditions, and held in Bhanudas's case that a detainee during emergency could not agitate for better Jail Conditions and facilities.

Maneka Gandhi's case was a landmark in Indian jurisprudence. The Maneka principle was extended to prison conditions and particularly to the plight of under-trials. A series of news items appeared in "The Indian Express" about the continued incarceration of under-trials in Bihar Jails. Some of them were never produced before the courts. Some others had spent more time in jails as under-trials than the maximum penalty that could be imposed upon them if they were convicted of the offences they were charged with. The Supreme Court in the Writs of Habeas Corpus for under-trials stated that

"The information contained in these newspaper cuttings is most distressing and it is sufficient to stir the conscience and disturb the equanimity of any socially motivated lawyer or judge. Some of the under trial prisoners whose names are given in the newspaper cuttings have been in jail for as many as 5, 7, or 9 years and a few of them for even more than 10 years without their trial being begun. What faith can these lost souls have in a judicial system which denies them a bare trial for so many years, and keeps them behind bars, not because they are guilty, but because they are too poor to afford bail and the courts have no time to try them. There can be little doubt after the dynamic interpretations placed by this court on Article 21 in Maneka Gandhi vs. Union of India that a procedure which keeps such large number, of people behind bars without trial so long cannot possibly be regarded as reasonable, just or fair so as to be in conflict with the requirement of the Article."

It was with these observations that the Supreme Court directed the Bihar Government and the Patna High Court to furnish to the Supreme Court details of criminal cases pending in Bihar and their year wise breakup. The Supreme Court thereafter directed the release of such under-trials who were in detention for an unduly long period.

The Supreme Court again in a separate writ petition filed by Sunil Batra and Charles Sobharaj, two prisoners in Delhi's Tihar jail, made an effort to humanize jail conditions. The question before the Court was: "Does a prison setting, ipso facto, outlaw the rule of law, lock out the judicial process from the jail gates and declare a long holiday for human rights of convicts in confinement? And if there is no total eclipse what luscious segment is open for judicial justice? Sunil Batra, sentenced to death had challenged his incarceration in solitary confinement and Charles Sobhraj had challenged his confinement with bar-fetters.

The Supreme Court held that there is no total deprivation of a prisoner's rights of life and liberty. The "safe keeping" in jail custody is the limited jurisdiction of the jailer. "To desert safe-keeping into a hidden opportunity to care the ward and to traumatize him is to betray the custodian of law, safe custody does not mean deprivations, violation, banishment from the lantern barguet of prison life and infliction's of travails as if guardianship were best fulfilled by making the ward suffer near insanity."

The court held that Sunil Batra's mercy petition to the President/Governor had not been disposed off and Batra was not "under sentence of death." His solitary confinement was

quashed. In the case of Charles Sobhraj, it was held that there was no arbitrary power to put an under trial under bar-fetters. The discretion to impose "irons" is a quasi-judicial decision and a previous hearing is essential before putting a prisoners in fetters. The grounds for imposing fetters would be given to each victim in his language. It was further laid down that no "fetters" shall continue beyond day time and a prolonged continuance of bar-fetters shall be with the approval of the Chief Judicial Magistrate or a Sessions Judge.

In another case of "Prem Shankar Shukla Vs. Delhi Administration," the Supreme Court struck down the provisions of the Panjab Police rules which discriminated between the rich and the poor prisoner in determining who was to be handcuffed. The Court also held that in the absence of the escorting authority recording why the prisoner is being put under handcuffs, the procedure of handcuffing is a violation of Article 21.

The court concluded with the observation: "We clearly declare and it shall be obeyed from the Inspector General of Police and Inspector General of Prisons to the escort constable and the jail warder-that the rule regarding a prisoner in transit between prison house and court house is freedom from handcuffs and the exception, under conditions of judicial supervision we have indicated earlier, will be restraints with irons to be justified before or after. We mandate the judicial officer before whom the prisoner is produced to interrogate the prisoner as a rule, whether he has been subjected to handcuffs or other 'irons' treatment, and if he has been, the official concerned shall be asked to explain the action forthwith in the light of this judgement."

The Supreme Court has given a new dimension to the writ of habeas corpus by its judgement in Sunil Batra 'II' vs. Delhi Administration. While the decision of the Constitution Bench of the Supreme Court in Sunil Batra I vs. Delhi Admn. had crystalized the legally enforceable rights of a prisoner, the later decision in Sunil Batra II has radicalised the procedure for the enforcement of the rights of the prisoners.

The habeas corpus writ was traditionally used for securing the release of a person detained illegally. It is a favoured remedy because of its simplicity, non-technicality and the priority which is given to its hearing by courts. Sunil Batra II lays down the important principle of law that a writ of habeas corpus is available not only to secure the release of a prisoner illegally detained but also to regulate the conditions and manner of detention of a person whose detention is lawful. Thus a speedy and simple remedy is available to prisoners to seek redress of their grievances about the manner of their detention.

The prisoners now have an important forum for the enforcement of their rights. As all the grievances could formerly be aired only through the prison-hierarchy, very few prisoners voiced any complaints for fear of retaliation. The very existence of the remedy of a writ of habeas corpus would be a deterrent to jail authorities and could prevent arbitrary and capricious action.

In another recent landmark judgement in the case of "Francies Corale Mullin vs. the Administrator, Union Territory of Delhi & others", the Supreme Court explained the ingredients of personal liberty under Article 21. The case arose out of the rights of a detainee under COFEPOSA to have an interview with his family members and lawyers. The meeting with family members was restricted to one a month and the lawyer could be met only in the presence of an officer of the customs department. The Supreme Court ruled that the right to life and liberty included his right to live with human dignity and therefore a detainee would be entitled to have interviews with family members, friends and lawyers without these severe restrictions.

THE HON'BLE SUPREME COURT OF INDIA IN THE CASE OF RAMA MURTHY V STATE OF KARNATAKA SPECIFIED 9 PROBLEMS THAT THE INDIAN PRISONS ARE AFFLICTED WITH. THOSE BEING: –

- 80% prisoners are under trials
- Delay in trial.
- Even though bail is granted, prisoners are not released.
- Lack or insufficient provision of medical aid to prisoners
- Callous and insensitive attitude of jail authorities
- Punishment carried out by jail authorities not coherent with punishment given by court.
- Harsh mental and physical torture
- Lack of proper legal aid
- Corruption and other malpractices.

Prisoners should be allowed conjugal rights: Madras HC

In a historical verdict, the Madras High Court on Thursday said the prisoners should not be denied their conjugal rights. “Conjugal visits of the spouse of the prisoners should be allowed,” said a bench of justices S Vimala and T Krishnavalli.

The judgment was described as ‘historical’ and ‘landmark’ by clinical sexologists and psychologists who have been demanding that convicts serving prison terms should be considered as human beings and they should not be denied their conjugal rights.

The ruling came in a case where the wife of a 40-year-old life term convict, Sidhique Ali, detained at Palayamkottai Central Prison, filed a Habeas Corpus petition following the refusal of the deputy inspector general of police (Prisons) to release Ali for assisting his wife in infertility treatment, in spite of request submitted by the former.

After the verdict, the judges allowed Ali to take leave for two weeks.

The woman had last year approached the court with a request to release her husband for 60 days for infertility treatment after assurance by doctors that she stood a chance to get pregnant through treatment.

Though the court had asked the state government and the prison authorities to consider her plea, the petition was rejected on the ground that his personal life would be in danger.

This made her approach the court again with the Habeas Corpus petition.

The justices quoted a 1978 verdict by the Supreme Court which said: “Whether inside the prison or outside, a person shall not be deprived of his guaranteed freedom, save by methods, rights, just and fair. The bench also said that “even though the wife is not under incarceration, but a suffering person outside the prison on account of the marital relationship with the prisoner and her legitimate expectation to have a child cannot be declined”.

Allowing his release for two weeks, the court also stated that if the preliminary investigation by the doctors say that there is a possibility of cure and further treatment is necessary, then it would consider the extension of leave by another two weeks.

Describing the verdict as ‘humane’ and filled with compassion, T Kamaraj, a medical doctor with specialization and PhD in reproductive medicine, said this verdict would go a long way in bringing down instances of sexual abuses, violence and frustration reported from jails all over the country. “We need laws which treat prisoners as human beings. Just because they are convicts and sentenced by the court, their sexual rights should not be violated and denied,” said Dr Kamaraj.

Supreme Court Issues Directions to Prevent, Compensate for Unnatural Death of Prisoners

New Delhi: In a landmark judgment that is expected to improve prison conditions and lead to the setting up of mechanisms to lower the number of unnatural deaths in prisons and

compensate families of the deceased, the Supreme Court has directed the chief justices of high courts to register a suo motu public interest petition to identify the next of kin of the prisoners who have admittedly died an unnatural death, as revealed by the National Crime Records Bureau (NCRB) between 2012 and 2015, and to “award suitable compensation” in case it has not been paid.

In its order issued on September 15, the bench comprising Justices Madan B. Lokur and Deepak Gupta, also directed the Centre through the Ministry of Home Affairs (MHA) to ensure the circulation within one month, and at the latest by October 31, of the Model Prison Manual; the monograph prepared by the National Human Rights Commission (NHRC) titled “Suicide in Prison – prevention strategy and implication from human rights and legal points of view”; communications sent by the NHRC; the compendium of advisories issued by the MHA to the state governments; and the Nelson Mandela Rules and the Guidelines on Investigating Deaths in Custody issued by the International Committee of the Red Cross to the director general or inspector general of police in charge of prisons in every state and union territory.

Explain difference between natural and unnatural deaths

Calling for all efforts to be made to “reduce and possibly eliminate unnatural deaths in prisons and to document each and every death in prisons – both natural and unnatural,” the bench also told the Centre to direct the NCRB to explain and clarify the distinction between unnatural and natural deaths in prisons as indicated on the bureau’s website and in its annual reports. The court has also demanded that the NCRB should be told to explain the sub-categorisation ‘others’ within the category of unnatural deaths.

Noting that “like most societies, we are not strangers to custodial violence and unnatural deaths,” the court had said India’s vibrant democracy permits it to debate and discuss these issues with rational arguments. Stating that there must be a greater degree of sensitivity among those in authority with regard to persons in custody, the bench recalled how former chief justice R.C. Lahoti had while highlighting the aspect of custodial deaths treated a letter to the court as a public interest litigation. The court had then flagged the issues of overcrowding in prisons, unnatural death of prisoners, gross inadequacy of staff, and untrained or inadequately trained staff.

In its order dated February 5, 2016, the court had dealt with the issue of overcrowding in prisons and issued certain directions. In the present decision, it has considered the issue of unnatural deaths after relying on information provided by the NCRB. The NCRB had stated that there were 1469 natural and 115 unnatural deaths in 2015. But the court had observed that the distinction was “unclear”. For example, if a prisoner dies due to a lack of proper medical attention or timely medical attention, would that be classified as a natural death or an unnatural death, it asked.

What are “other” causes in unnatural deaths

Noting that 115 unnatural deaths were reported in 2015, the court said of these 77 were attributed to suicides, 11 to murder by inmates, seven to assault by outside elements, and 19 to causes identified as “others”. However, again it said, “there is a lack of clarity in the classification of unnatural deaths in the category of others” and said the NCRB should be directed to explain the difference not only between a natural death and an unnatural death but also to clarify the sub-categorisation of “others” in unnatural deaths.

States told to sensitise jail staff, appoint counsellors

As for the state governments, the Supreme Court has directed that they should in conjunction with the State Legal Services Authority (SLSA), the National and State Police Academy and the Bureau of Police Research and Development conduct training and sensitisation programmes for senior police officials of all prisons on their functions, duties and responsibilities as also the rights and duties of prisoners.

The apex court in its order also spelled out the need to have counsellors and support persons in prisons. “Their services can be utilized to counsel and advice prisoners who might be facing some crisis situation or might have some violent or suicidal tendencies. The State Governments are directed to appoint counsellors and support persons for counselling prisoners, particularly first-time offenders. In this regard, the services of recognised NGOs can be taken and encouraged,” it said.

Prisoners to get more access to families, lawyer

Realising the importance of greater interaction between the prisoners and their families and lawyers, the bench said “visits to prison by the family of a prisoner should be encouraged” and noted that “it would be worthwhile to consider extending the time or frequency of meetings and also explore the possibility of using phones and video conferencing for communications not only between a prisoner and family members of that prisoner, but also between a prisoner and the lawyer, whether appointed through the State Legal Services Authority or otherwise.”

It also directed all the SLSAs to urgently conduct a study on the overall conditions in prisons in the state and the facilities available as had been conducted by the Bihar SLA and also but the Commonwealth Human Rights Initiative in Rajasthan.

The court said the SLSAs should also assess the effect and impact of various schemes framed by National Legal Services Authority relating to prisoners and urged the chief justices of all high courts to take up the initiative in the capacity of patron-in-chief of the respective SLA.

Medical facilities in prisons do not meet minimum standards

Lamenting that it has been found that in Karnataka, West Bengal and Delhi “the medical facilities in prisons do not meet minimum standards of care,” the court said this is an indication that the human right to health is not given adequate importance in prisons and that may also be one of the causes of unnatural deaths in prisons.

Therefore, observing that “providing medical assistance and facilities to inmates in prisons needs no reaffirmation” as “the right to health is undoubtedly a human right,” the court said all state governments should concentrate on making this a reality for all, including prisoners. It also directed all state governments to study the availability of medical assistance to prisoners and take remedial steps wherever necessary.

Create Board of Visitors with eminent persons by November 30

Observing that the constitution of a Board of Visitors, which includes non-official visitors, is of considerable importance since through it eminent members of society can participate in initiating reforms in prisons and in the rehabilitation of prisoners, the Supreme Court has directed all the states to complete the constitution of such boards by November 30. It has also directed that the establishment of ‘open jails’ or ‘open prisons’ be considered and in this respect noted that the experiment was a success in Shimla (Himachal Pradesh) and at the semi-open prison in Delhi.

Juvenile care given high priority

The court has also directed the Ministry of Women and Child Development, which is concerned with the implementation of Juvenile Justice (Care and Protection of Children) Act, to formulate by December 31 procedures for tabulating the number of children who suffer an unnatural death in childcare institutions where they are kept in custody either because they are in conflict with the law or because they need care and protection. It also directed the respective high court bench hearing the suo motu PIL as per its directions to “pass necessary orders and directions” in case of any difficulty.

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