

Law Enforcement Engagement with Victims of Terrorism

“We stand in solidarity with families of those who lost loved ones, the wounded survivors, and those whose lives have been forever changed by acts of terrorism. We commit to raising their voices in seeking truth and justice. We have a duty to ensure they are always heard and never forgotten”

UN Secretary General António Guterres, 21 August 2020

Abstract

As the Kenyan government and its law enforcement agencies are considering how to support, both judicially and in practice, the diverse groups of Victims of Terrorism (VoT) in the country, this preliminary assessment seeks to identify how best to support Kenya’s policy and legislative development to address the rights and needs of VoT; specifically, vis-à-vis law enforcement engagement. Key findings following qualitative interviews and analyses include a prevalence in the lack of general understanding of the term VoT, among practitioners and academics alike. Further, though there is no specific policy or law guiding support for VoT in Kenya, the Prevention of Terrorism Act (POTA), calls for the establishment and operationalization of a fund to compensate

VoT. It is further found that Kenyan counterterrorism responses – though at times unstructured and inconsistent in adhering to standards of operational procedures – has improved significantly in recent years. The successfully coordinated and rapid response to the January 2019 Dusit Hotel attack is often referenced by respondents as an example of this improvement. While policies are yet to be established for engagement with direct VoT, many actors adhere to policies that address the rights of victims of state counterterrorism measures. It is further found that stakeholders note how VoT may acknowledge that the government is not the cause nor responsible for their suffering, though they may perceive that the state failed to protect them. The recommendations captured in this report closely align with those of the UNGA resolution “Enhancement of International Cooperation to Assist Victims of Terrorism”. Concrete and actionable recommendations include VoT policy and legislation development within the criminal justice system, as well as targeted joint trainings and capacity building initiatives for law enforcement. Recommendations further include the creation of national media campaigns, trauma, and psychosocial support for both law enforcement as well as victims, and to conduct empirical and legal research on how to help fast-track Kenya’s efforts in its development of VoT support.

¹ UN Audiovisual Library, “The Third Commemoration of the International Day of Remembrance of and Tribute to the Victims of Terrorism,” 21 August 2020, <https://www.unmultimedia.org/avlibrary/asset/2554/2554446/>



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1. Introduction

The following section elaborates on the frameworks dedicated to victims of terrorism (VoT). It is based on the findings of the desktop review conducted for this report and is not an exhaustive literature review on the topic.

1.1 Role of Victims in the Criminal Justice Process

Criminal law is largely based on the notion that offenders not only harm direct victims of their crimes, but more significantly the public at large. Hence, it may be argued that those directly affected and who engage with the criminal justice agents, do so not only on their own behalf, but that they also perform acts of public good and duty. While the right and plight of victims of crime have been recognized in the Western and Eastern Legal traditions, dating back to Code of Hammurabi, proactive and consistent measures have not been advanced to establish their centrality in the criminal justice process.² Even though most common law legal systems retain compensation and restitution (Section 171 and 177 of the Kenyan Criminal Procedure Code) as punishments in criminal law, most victims are expected to pursue damages under the civil process.³ Hence, the centrality of the personal and direct damage suffered by victims of crimes was, for a long time, not a primary concern of the criminal justice system. Aside from compensation and restitution for damage, the presumption is that the prosecution represents the interests of victims in entirety. This assumption can be problematic where investigators and prosecutors are ill equipped, weak and or compromised. It is also problematic where perpetrators have no means to compensate victims or are deceased. Particularly in the common law tradition, the role of victims in the administration of

criminal justice has long been limited to that of a trial witness. In this respect, responsibility for victims and witnesses was left to the investigators and prosecutors, even though responsibilities usually did not extend beyond the trial, or once the victims and witnesses had provided evidence.

Since the 1970s, victimology has played an important function in revitalizing the role of the victim, once described as the “forgotten party” in the criminal justice system. Evidently, the need for a comprehensive approach to address victims of crime has emerged from these developments. The mid 1980s saw intense advocacy to promote the separate voice of victims and witnesses from the prosecution, and has led to the adoption of several international standards and norms on victims of crime.⁴ The UN adopted its first resolution in this regard in 1985, providing definition as well as recommendations for state parties to undertake towards ensuring clarity and understanding of the need to protect and promote the rights of victims of crime.⁵

1.2 International and United Nations Frameworks

In 8 September 2006, the United Nations Global Counterterrorism Strategy (UNGCTS) – a unique instrument to enhance national, regional, and international efforts to counter terrorism – was unanimously adopted by all Member States.⁶ While many counterterrorism conventions and protocols predate the UNGCTS, a plethora of international instruments, agreements, legal frameworks, and plans of actions to suppress terrorism emerged

² “Hammurabi’s Code: Quaint or Forward Looking?” Cyrus H Gordon, New York Rhinehart, 1960, https://www.ncjrs.gov/ovc_archives/nvaa/ch04hslaw.htm

³ Kenya Law, Criminal Procedure Code, <http://kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=CAP%2075>

⁴ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34); Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC resolution 2005/20); United Nations Convention against Transnational Organized Crime, Article 25; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Articles 6, 7 and 8; United Nations Convention against Corruption, Article 32. At the international level, the non-governmental organization World Society of Victimology works on fostering consensus on the development of a convention on the rights of victims.

⁵ General Assembly RES/40/34 (29 November 1985), “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power” https://www.un.org/genocideprevention/documents/atrocitycrimes/Doc.29_declaration%20victims%20crime%20and%20abuse%20of%20power.pdf

⁶ United Nations General Assembly, 8 September 2006, “The United Nations Global Counter-Terrorism Strategy,” <https://undocs.org/A/RES/60/288>



following the adoption of the global strategy. However, “[d]espite the proliferation of international agreements under the auspices of the United Nations concerned with the suppression of terrorism, there is not one that specifically addresses the human rights of the victims and the corresponding obligations on the States.”⁷ Though considerations for the rights of VoT are captured in the 2006 Global Strategy – particularly, pillars I and IV of the UNGCTS capture the requirements for Member States to promote and protect the rights of victims of terrorism – there have only been limited advancements, which are relatively recent.⁸ Contentious for many reasons, securing the rights of VoT has been a slow progress. Aside from the very complex international and national legislation that would guide VoT policies, there is, as stated, the universal dearth of a legal definition of the term itself, further delaying development prospects.⁹

“Victims of terrorism should be free from discrimination on any basis, including that of race, colour, gender, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, disability and sexual orientation. Special attention should be paid to addressing the specific immediate, short-term and long-term needs of victims of terrorism. Recognizing that such victims are not a homogenous group, age- and gender-sensitive assistance and support should always be provided on the basis of the harm that they have suffered and should include humanitarian assistance, recognition, acknowledgement, respect, reparation, compensation, effective remedy, protection and access to justice.” UN Secretary General Report on Progress of the United Nations in Supporting Member States to Assist Victims of Terrorism. Source: <https://undocs.org/en/A/74/790>

In an effort to encourage Member States to hasten adoption of national VoT legislation, the then Secretary-General held the first ever symposium on 9 September 2008 for VoT, entitled “Supporting Victims of Terrorism”. The aim of the symposium was to “provide a forum for discussing concrete steps to assist victims in coping with their experiences, and to share good practices”.¹⁰ The next international arena where the topic of VoT was paid significant attention was at the preparatory meeting of the Global Counterterrorism Forum Criminal (GCTF) “Criminal Justice Sector/Rule of Law Working Group”, on 27-28 June 2011. At this meeting, Member States stressed the importance that “victims of terrorism are provided with the appropriate measures to address the harm done to them”.¹¹ Further, the GCTF Countering Violent Extremism (CVE) Working Group held the ‘High-Level Conference on Victims of Terrorism’ on 9-10 July 2012, during which Member States formally adopted the “Madrid Declaration on Victims of Terrorism”.^{12,13} This was considered a major step forward in protecting the rights of VoT at a global scale.¹⁴ In addition to ensuring the right of VoT, the Madrid Declaration further called for a holistic consideration for VoT, including but not limited to, witness protection, building law enforcement capacity, support during criminal proceedings, and participation in the criminal justice processes.¹⁵

One of the earliest comprehensive UN assessments on the rights of VoT was conducted under the leadership of Ben Emmerson, the second Special Rapporteur on the Promotion and Protection of Human Rights. Emmerson, who commenced his mandate on 1 August 2011, presented his findings to the Human Rights Council on 4 June 2021 and clearly defined “the legally binding and internationally recognized human rights of victims of terrorism”, while emphasizing the international legal obligations

⁷ The Beam, United Nations Counterterrorism Implementation Task Force (CTITF), “General Assembly Underlines the Need to Avoid Duplication,” Volume 6 June–December 2012, https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/ctitf_beam-no6-web.pdf

⁸ UN Victims of Terrorism Support Portal, “Secretary General Report on Progress of the United Nations System in Supporting Member States to Assist Victims of Terrorism,” 8 April 2020, <https://www.un.org/victimsofterrorism/en/node/5823>

⁹ “While there is no agreed international definition of the term “victim of terrorism,” the United Nations carries out its work in accordance with international human rights and humanitarian frameworks, as well as the 19 counter-terrorism treaties and conventions.” UN Secretary General Report on Progress of the United Nations in Supporting Member States to Assist Victims of Terrorism, <https://undocs.org/en/A/74/790>

¹⁰ <https://www.un.org/victimsofterrorism/en/about/support-portal>

¹¹ United States Department of State, “Global Counterterrorism Forum Cairo Declaration on Counterterrorism and the Rule of Law: Effective Counterterrorism Practice in the Criminal Justice Sector,” 22 September 2011, <https://2009-2017.state.gov/j/ct/rls/other/gctf/173359.htm>

¹² The Beam, United Nations Counterterrorism Implementation Task Force (CTITF), “General Assembly Underlines the Need to Avoid Duplication,” Volume 6 June–December 2012, https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/ctitf_beam-no6-web.pdf

¹³ Global Counterterrorism Forum, “Madrid Declaration on Victims of Terrorism,” <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/2016%20and%20before/GCTF-Madrid-Declaration-ENG.pdf?ver=2016-09-01-114725-167>

¹⁴ Spain Ministry of Foreign Affairs and Cooperation, “Fight Against Terrorism through International Forums,” <http://www.exteriores.gob.es/Portal/en/PoliticaExteriorCooperacion/Terrorismo/Paginas/LuchaContraElTerrorismoDesdeLosForosInternacionales.aspx>

¹⁵ Ibid.



of Member States to secure these rights.¹⁶ Shortly thereafter, on 29 June 2012, the UN held its third review of the 8 September 2006 Global Strategy¹⁷ at the 66th session of the UNGA, during which the assembly added the following clause regarding VoT:

“(10) Recognizes the work done and efforts made by the relevant United Nations bodies and entities and other international, regional, and subregional organizations aimed at supporting, recognizing and protecting the rights of victims of terrorism in all its forms and manifestations, and urges them to step up their efforts to provide, upon request, technical assistance for building the capacity of Member States in the development and implementation of programmes of assistance and support for victims of terrorism”.¹⁸

By 28 June 2019 (six years after the above clause was added), the 73rd session of the UNGA adopted the resolution on Victims of Terrorism (A/RES/73/305), “Enhancement of International Cooperation to Assist Victims of Terrorism”.¹⁹ The resolution called on Member States to develop comprehensive assistance plans for victims of terrorism, consistent with domestic law, and taking into account a gender perspective,²⁰ while reaffirming the mandate of e.g. UNODC’s to provide: “[T]echnical assistance for building the capacity of requesting Member States in the development and implementation of programmes of assistance and support for victims of terrorism, in accordance with relevant national legislation”.²¹ Moreover, the 8 April 2020 report of the UN Secretary General, entitled “The United Nations system in supporting Member States in assisting victims of terrorism”, states: “The progress of existing United Nations activities related to

victims of terrorism is charted and evaluated in three key areas: (a) supporting the rights and addressing the needs of victims of terrorism, (b) the delivery of United Nations capacity-building assistance to requesting Member States, and (c) recognition, advocacy for, and raising awareness of victims’ issues”.²²

The Secretary General also launched the “Group of Friends of Victims of Terrorism,” marking this as an: “Important step to address all these challenges [of terrorism]. Through its leadership role at the United Nations, this group can ensure that victims’ voices are heard, their rights protected, and their recovery and rehabilitation needs addressed”.²³ Kenya is currently the only signatory Eastern Africa Police Chiefs Cooperation Organization (EAPCCO) Member Countries among the 34-Member States signatory the Group of Friends.

1.3 National-Level Frameworks

Preceding the 24 December 2015 UN Secretary General’s Plan of Action to Prevent Violent Extremism (PVE), Kenya was among the first Member States to pursue the implementation of its national strategy to Countering Violent Extremism (CVE). On 25 – 28 June 2015, Kenya launched the East Africa regional “Conference on Countering Violent Extremism”. The conference, which was organized by the Ministry of Interior and Coordination of National Government, brought together 22 African government officials and convened pursuant to the United Nations Security Council (UNSC) Resolution 2178 (2014) on enhancing international and regional cooperation to counter violent extremism.²⁴ As a result, the National Counter Terrorism Centre (NCTC) subsequently drafted the National Strategy to

¹⁶ Special Rapporteur on Promotion and Protection of Human Rights while Countering Terrorism- Specific work on Victims of Terrorism, 4 June 2012, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-14_en.pdf

¹⁷ United Nations General Assembly, 12 July 2012, <https://undocs.org/A/RES/66/282>

¹⁸ Resolution adopted at the 66th session of the UN General Assembly, “Resolution Adopted by the General Assembly on 28 June 2019,” 2 July 2012, <https://undocs.org/en/A/RES/66/282>

¹⁹ United Nations General Assembly, 2 July 2019, <https://undocs.org/en/A/RES/73/305>

²⁰ <https://www.un.org/victimsofterrorism/en/node/5598>

²¹ Resolution adopted by the General Assembly on 28 June 2019, “Enhancement of international cooperation to assist victims of terrorism,” <https://www.undocs.org/a/res/73/305>

²² Secretary General Report on Progress of the United Nations system in supporting Member States to assist victims of terrorism, <https://www.un.org/victimsofterrorism/en/node/5823>

²³ United Nations Secretary General, “Secretary-General’s Remarks at the Launch of the Group of Friends of Victims of Terrorism,” 25 June 2019, <https://www.un.org/sg/en/content/sg/statement/2019-06-25/secretary-generals-remarks-the-launch-of-the-group-of-friends-of-victims-of-terrorism-prepared-for-delivery>

²⁴ National Counter Terrorism Center Kenya, “CVE Conference Document,” <https://www.counterterrorism.go.ke/library/>



Counter Violent Extremism (NSCVE). The NSCVE provides coordinated guidelines for both state security agencies and civil society members. At the NSCVE launch on 7 September 2016, the president gave the directive for the creation of National County Action Plans (CAP) on Preventing and Countering Violent Extremism (PCVE) through stakeholder consultations.²⁵ The NCTC is the leading federal agency supporting each of the counties in drafting their strategies. The center’s legal mission (under Security Laws Amendment Act 2014) is to “[b]e responsible for the coordination of national counterterrorism efforts in order to detect, deter, and disrupt terrorism acts”.²⁶ The consultations for the CAPs are also led by the county commissioners and county governors, representing the national government and local administrations respectively.

The first CAP was launched in Kwale County, under the leadership of the civil society organization Human Rights Agenda (HURIA), on 27 February 2017. According to the HURIA officers interviewed, their executive director has similarly provided assistance in drafting the CAPs for other counties. According to six of the research interviewees, who attended the launch of the Nairobi CAP on 29 September 2020, the strategies contained within the plan were developed as “top-down policies” and were “unrepresentative of the local community’s grievances”. The handful of civil society attendees present at the Nairobi launch, which largely comprised of government officials and politicians, reportedly contested their community’s lack of representation. The interviewees further stated that key community stakeholders, particularly youth, were not included. To address this issue on lack of representation, and in an effort to include a bottom-up or grassroots approach to the drafting of the CAPs, the Kamukunji Sub-County – one of the seventeen constituents of Nairobi County – initiated engagements on sub-county level – in bringing together families who were victims of terrorism and violent extremism, as well as al-Shabaab returnees, the NCTC, and other state agencies for stakeholder consultations. The resulting Kamukunji Sub-County CVE plan of action, drafted by the Kamukunji Community Peace Network (KACPEN), was deemed a successful effort that reflected the local community’s grievances while providing pertinent recommendations.²⁷

Though each of the CAPs reviewed make reference to VoT, there is no specific policy, mechanism, or assistance support explicitly defined.²⁸ Each of the CAPs, however, are based on wide-ranging stakeholder consultations including women, youth, and interfaith groups.

1.4 Objectives

The objectives of this study are to propose legislative and policy recommendations to address the rights and needs of VoT and to deliver capacity building activities for the EAPCCO Member Countries. Therefore, this assessment seeks to address the following key objectives:

- **Analyse VoT perceptions** of, and perspectives on, the Kenyan law enforcement, as well as law enforcement perceptions of and perspectives on VoT;
- **Review existing Standard Operating Procedures (SOP)** and/or other guidance for law enforcement’s interaction with VoT;
- **Identify existing law enforcement good practices** on interaction with VoT;
- **Identify challenges** in law enforcement interaction with VoT;
- **Identify good practice and challenges** regarding law enforcement interaction with other stakeholders (e.g. prosecutors, judges, military, local authorities, community leaders, religious leaders, health care and education providers, and media) that have an important impact on law enforcement relationship with VoT; and,
- **Propose recommendations** to develop and enhance law enforcement knowledge and skills to improve interaction with VoT.

²⁵ Beyond the Lines, “The Kenya National Strategy to Counter Violent Extremism Simply Put.” 21 February 2019. <http://www.beyondthelines.org/simplifying-the-national-strategy-to-counter-violent-extremism/>

²⁶ The National Counter Terrorism Center. <https://www.counterterrorism.go.ke/about-us/>

²⁷ The Kamukunji Sub-County Plan for CVE is informed by the National Strategy for Countering Violent Extremism and aligned with the Nairobi CVE CAP.

²⁸ This list of CAPs that the research team referenced include the Kamukunji, Kwale, Nairobi, and Tana River County Plans.



2. METHODOLOGY

Kenya is the only EAPCCO Member Country that is a member to the Secretary General's "Group of Friends of Victims of Terrorism". UNODC, along with the United Nations Office on Counter Terrorism (UNOCT), is an Observer Member of the Group of Friends. Therefore, Kenya was chosen as the first EAPCCO Member Country in which this VoT research in the East Africa region is undertaken.

Research participants included Kenyan law enforcement agencies and other relevant government actors and administrations such as senators, members of parliament, prosecutors, judges, and local authorities. Non-state interviewees included civil society organizations that directly deal with matters relating to VoT, mainly secondary and indirect victims of terrorism. The qualitative assessment was conducted through one-on-one semi-structured interviews allowing for an informative discussion with each interviewee. The research team interviewed a total of 26 government officials and law enforcement and civil society and human rights organizations between December 2020 and January 2021.²⁹

Though part of the original proposal, it was not possible for the research team to hold focus group

discussions due to the limitations presented by the COVID-19 pandemic. A majority of interviewees met with the research team in-person under socially distant conditions, in full compliance with COVID-19 mitigation measures taken in Kenya, while several participants partook via phone or virtual interviews. All interviews conducted were in accordance with the 1964 Helsinki Declaration and its later amendments or comparable ethical standards. Informed consent was obtained from all individual participants involved in the research.

Key documents consulted for this report include the National County Action Plans (CAP) on Preventing and Countering Violet Extremism (PCVE). Though there are numerous National CAPs that have been drafted and submitted, the research team limited reference to the CAPs that were directly submitted by those interviewed. This list includes the Kamukunji, Kwale, Nairobi, and Tana River Counties CAPs. This report, therefore, represents a snapshot assessment of the VoT environment in Kenya and their interactions with and perceptions of law enforcement. A draft report was shared with the participants to ensure the accuracy of the content contained in this report.

²⁹ Semi-structured interview questionnaire included questions related to the following: i) Policy & legislation guiding duties; ii) Existing SOPs with regard to VoTs; iii) Defining VoT engagement experience; iv) Standard good practices with regard to VoT; v) General VoT perceptions; vi) Challenges with regard to interaction with VoT; vii) Good practice and challenges when interacting with other actors; viii) Missing aspects with regard to VoT engagement; ix) Proposed policy to improve VoT engagement; x) Training proposed to improve VoT engagement.

3. DEFINITION OF VICTIMS OF TERRORISM

Similar to “terrorism” and “violent extremism”, there is no universally accepted definition of the term “victim of terrorism”. All interviewees in this study questioned the definition the researchers attributed to the term VoT. This assessment adopts the term per the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, in which “victims” is defined as follows:

““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 proscribing criminal abuse of power.”³⁰

The Declaration further states: “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”.³¹ The latter are individuals who are commonly referred to as “indirect victims”.³²

Kenya faces significant effects of terrorism due to its proximity to Somalia, and defining the term ‘victim’ in the context of terrorism, whether direct or indirect, is reported as challenging according to

interviewees, due to a large number of victims of state counterterrorism responses and measures. Interviewees further questioned whether al-Shabaab returnees qualified as VoT. Though a contentious topic, both nationally and globally, most participants, including law enforcement practitioners, generally agreed that returnees should qualify as VoT.³³

The role of victims

Recognizing the role that victims of terrorism could play, including in countering the appeal of terrorism, the UN General Assembly emphasized the need to promote international solidarity in support of such victims and to ensure that they were treated with dignity and respect. It also recognized the work of United Nations bodies and other organizations aimed at supporting, and protecting the rights of victims, and urged the entities to step up their efforts to provide, upon request, technical assistance for building the capacity of Member States to develop and implement programmes of assistance and support for victims of terrorism.

Source: The Beam, United Nations Counterterrorism Implementation Task Force (CTITF), “General Assembly Underlines the Need to Avoid Duplication,” Volume 6 June-December 2012, https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/ctitf_beam-no6-web.pdf

³⁰ United Nations Human Rights Office of the High Commissioner, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, <https://www.ohchr.org/en/professionalinterest/pages/victimsofcrimeandabuseofpower.aspx>

³¹ United Nations Human Rights Office of the High Commissioner, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, <https://www.ohchr.org/en/professionalinterest/pages/victimsofcrimeandabuseofpower.aspx>

³² United Nations Human Rights Office of the High Commissioner, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, <https://www.ohchr.org/en/professionalinterest/pages/victimsofcrimeandabuseofpower.aspx>; The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation of Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 2005, https://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_e.pdf

³³ Globally, the issue of considering former violent extremist combatants as victims of terrorism is contested. This paper adopts the position that “returnees” can be VoT if they (i) were children at the time of their recruitment, or (ii) they were abducted, trafficked, coerced, or lured into violent extremist groups.



Kenya is not unique in its lack of legislative guidelines that define support for VoT. Out of the 193 UN Member States, 162 countries similarly do not have legislation that directly address VoT.³⁴ This report follows the VoT typology breakdown provided by the former Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Ben Emmerson, in his report entitled “Framework Principles for Securing the Human Rights of Victims of Terrorism”.³⁵ Though Emmerson identifies four categories of VoT, for the purposes of this report, the term VoT refers to the following three classifications:

- **Direct victims of terrorism** – Natural persons who have been killed or have suffered serious physical or psychological injury as the result of an act of terrorism;
- **Secondary victims of terrorism** – Natural persons who are the next of kin or dependents of a direct victim of terrorism; and,
- **Indirect victims of terrorism** – Individuals who have suffered serious physical or psychological injury as the indirect result of an act of terrorism.³⁶

³⁴ United Nations, Victims of Terrorism Support Portal, <https://www.un.org/victimsofterrorism/en/node/1845>

³⁵ Special Rapporteur on Promotion and Protection of Human Rights while Countering Terrorism- Specific work on Victims of Terrorism, <https://www.un.org/victimsofterrorism/en/special-rapporteur-promotion-and-protection-human-rights-while-countering-terrorism-specific-work>

³⁶ Ibid.

4. FINDINGS

The findings in the following section are divided into two parts: accounts provided by law enforcement agencies and those provided by civil society and human rights organizations. Each of these two sections are further divided into three components: i) policy and legislation guiding duties, ii) VoT perceptions and perspectives on law enforcement and vice versa, and iii) what is missing with regard to VoT engagement.

4.1 Law Enforcement - Policy and Legislation Guiding Duties

Though there is no specific policy or law guiding support for VoT in Kenya, the Constitution provides generic guidance with regards to “victims of offences.” Article 50(9) of the Kenyan Constitution states: “Parliament shall enact legislation providing for the protection, rights and welfare of victims of offences”.³⁷ The Parliament subsequently created the Victim Protection Act to give effect to Article 50(9); “To provide for protection of victims of crime and abuse of power, and to provide them with better information and support services to provide for reparation and compensation to victims; to provide special protection for vulnerable victims, and for connected purposes”.³⁸

Further to Article 50(9), the Prevention of Terrorism Act (POTA) Revised Edition 2019 [2012], section 49(4) establishes a fund to be known as the “Compensation of Victims of Terrorism Fund”. The Fund is to be comprised of moneys

and property seized from perpetrators. The law further states: “Subject to this section, the Cabinet Secretary may, by regulations, provide for the management and administration of the Fund and for anything incidental to or connected therewith”.³⁹ The VoT Compensation Fund, however, exists only in legislation. It is a proposal that is yet to be operationalized and funds to be allocated. Moreover, the regulations needed to clarify the execution and guidelines in use of the funds remains to be developed. In Kenya, regulations provide mechanisms and guidance in operationalization of laws. Therefore, though the POTA provides the legislation, it is the Cabinet Secretary who needs to set the regulations that provide the needed guidance for operationalizing the fund.⁴⁰ Even though the establishment of the Fund seemingly implies that VoT do indeed qualify for some specialized provisions, the POTA does not address any such support.⁴¹ Likewise, common global counterterrorism responses such as amnesty, the rehabilitation and reintegration of former violent extremist combatants, and provision of emotional support such as trauma healing or psychosocial assistance, are yet to be included in the POTA. Similarly, the 26 October 2020 Building Bridges Initiative (BBI) report, which seeks significant amendments to the 2010 Constitution but is not a legislative document, calls for the operationalization of the compensation fund while also calling for “special attention” for VoT.⁴² Specifically, section 186 (D) states: “As the Victim Protection Trust Fund is operationalised, it should pay special attention to the victims of terrorism whose victimisation is directly intended to intimidate all Kenyans and our political, social and religious choices”.⁴³

³⁷ Kenya Law, Constitution of Kenya, <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=Const2010>

³⁸ Kenya Law, Act Title: Victim Protection, <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2017%20of%202014>

³⁹ Kenya Law, Act Title: Prevention of Terrorism, http://kenyalaw.org:8181/exist/kenyalex/actviewbyid.xql?id=KE/LEG/EN/AR/P/NO.%2030%20OF%202012/sec_53

⁴⁰ For an example of how regulations work, see here the Victim Protection Act’s regulations established for its Trust Fund for victims of crimes: <https://statelaw.go.ke/wp-content/uploads/2020/11/The-Victim-Protection-Trust-Fund-Regulations-2020.pdf>

⁴¹ At the time of writing, the Parliament Security Committee within the National Assembly is reviewing the miscellaneous amendments to the POTA.

⁴² The Star, “Building Bridges Initiative Proposals Boost Kenya’s War on Violent Extremism,” 14 January 2021, <https://www.the-star.co.ke/opinion/2021-01-14-building-bridges-initiative-proposals-boost-kenyas-war-on-violent-extremism/>

⁴³ Building Bridges Initiative, Chapter 10, Safety and Security, <https://e4abc214-6079-4128-bc62-d6e0d196f772.filesusr.com/ugd/00daf8-f425a48894fb4cba8ed570065167e653.pdf>

According to counterterrorism officers interviewed, the general responses to acts of terror are unstructured and there is inconsistency in following the standards of operational procedures. However, the Kenyan counterterrorism response has improved significantly in recent years according to law enforcement respondents – who often referenced the successfully coordinated and rapid response to the January 2019 Dusit Hotel as an example of this improvement.⁴⁴ Learning valuable lessons from the 2013 attack at Westgate Mall – where the counterterrorism response was uncoordinated and inefficient – Kenyan counterterrorism agencies, even where established SOPs are lacking, increasingly, increasingly respond holistically to terror attacks.⁴⁵ A leading counterterrorism agency accounted for the new responses to acts of terror. The observed sequence entails, firstly, to **stop active shooters, by SWAT teams; including through** i) Tactical team as first responders; ii) Squad shooters deployed; and, iii) Search and rescue teams deployed. Secondly, **the crime scene management by investigative teams include** i) investigators arriving to handle incidence and victim response; ii) statement recording team capturing the details of every person at the scene and identifying key witnesses; iii) investigators deployed to visit the victims taken to hospital. Evidence of the success of reformed response measures are highlighted in the significant reduction in number of fatalities and duration between the Westgate and Dusit attacks, from 67 fatalities and four days during the former, to 14 fatalities and 20 hours for the latter.

The exhaustive Service Standing Orders guide the National Police Service in the execution of their duties.⁴⁶ The National Police Service Act 2011, “requires the Inspector-General to review all Standing Orders issued before its enactment”.⁴⁷ If an action is not documented in the Orders, the police cannot carry out that action. The intelligence officers interviewed advised that for VoT SOPs to be incorporated in the Service Standing Orders, they need to be developed under the currently ongoing

revision of the Service Standing Orders. The VoT SOPs, once approved by the Service Board, could then be included in the publication of the revised Orders. The Service Board is comprised of the Inspector and Deputy Inspector Generals of the National Police Service (NPS), Director of the Directorate of Criminal Investigations (DCI), and the Directorate of the National Intelligence Service (NIS). The law enforcement officers interviewed observed that law enforcement officers are often the first point of contact for VoT, for which interviewees elaborated on the need for appropriate guidelines on how best to interact with VoTs. They further advised that any drafting of VoT SOPs in the Service Orders should and must include the NPS and operationalized by the Anti-Terrorism Police Unit (ATPU) of the DCI.

4.2 Law Enforcement Perceptions of VoT

Law enforcement engagement with direct VoT, i.e. victims defined as “[p]ersons who have been killed or have suffered serious physical or psychological injury as the result of an act of terrorism”, is perceived as limited due to the lack of legislation that defines procedures with regards to this group.⁴⁸ As per the earlier classification of VoT, the most common groups of VoT in Kenya are the secondary and indirect victims of terrorism, defined respectively as “[p]ersons who are the next of kin or dependents of a direct victim of terrorism” and “[i]ndividuals who have suffered serious physical or psychological injury as the indirect result of an act of terrorism”.^{49,50}

Law enforcement officers interviewed accounted for following some legal considerations despite the absence of the, nonetheless, necessary VoT legislation. One example provided included ensuring protection of the rights of the child in cases where children, as young as 13 years, have been forcibly recruited by al-Shabaab. Another example included law enforcement officers being mindful of the risks

⁴⁴ The Star, “Westgate lessons inform quick response to Dusit hotel attack,” 17 January 2019, <https://www.the-star.co.ke/news/2019-01-17-westgate-lessons-inform-quick-response-to-dusit-hotel-attack/>

⁴⁵ The Conversation, “Kenya’s security forces did better this time. But there are still gaps,” 20 January 2019, <https://theconversation.com/kenyas-security-forces-did-better-this-time-but-there-are-still-gaps-110039>

⁴⁶ National Police Service Standing Orders, <https://www.nationalpolice.go.ke/downloads/category/5-acts.html>

⁴⁷ Ibid.

⁴⁸ Special Rapporteur on Promotion and Protection of Human Rights while Countering Terrorism- Specific work on Victims of Terrorism, <https://www.un.org/victimsofterrorism/en/special-rapporteur-promotion-and-protection-human-rights-while-countering-terrorism-specific-work>

⁴⁹ Ibid.

⁵⁰ The term “indirect victim” is defined in the 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and the 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparation of Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law as natural persons who are the next of kin or dependents of a direct victim.

of re-traumatization of VoT within the criminal justice system, particularly as witnesses of acts of terrorism.

According to the interviewees it was in recent years that police constables, rank of inspector and above, would also serve as prosecutors, even though majority were unqualified. Following the police reforms, prosecutors from the Office of the Director of Public Prosecutions (ODPP), “took over all the prosecution in all courts replacing the Police Prosecutor”.⁵¹ The overall perception, as accounted for by law enforcement officers interviewed, is that the police force is often the first point of contact for all VoT; thus, they elaborated on the necessity of being well-aware of how best to interact and treat these vulnerable groups.

Returnees

According to the law enforcement practitioners interviewed, returning *Kenyan* Foreign Terrorist Fighters (FTFs), once vetted by the government, are at times engaged as justice collaborators.⁵² The interviewees claimed that vetting returnees is a challenging process; not the least regarding those returning by crossing the land border from Somalia. Also, according to the officers, the returnees are at times victimized twice, once by the terror group and again by ill-equipped state agencies upon return.⁵³

An interviewee recalls a case detailing how a returnee, engaged in rehabilitation initiatives, was released once intelligence and law enforcement officers had gathered information deemed necessary. According to the interviewee, the individual and others in similar situations should receive state protection due to the threat posed by aggrieved al-Shabaab members.

Witness Protection Agency

Kenya’s Witness Protection Agency (WPA) is a body established under the Witness Protection Act (Chapter 79 Laws of Kenya), which came into operation on 1 September 2008.⁵⁴ Referrals to the WPA are received from law enforcement institutions, ODPP, courts, or human rights organizations.

Occasionally, law enforcement informs the WPA of a particular witness engaged in cases such as terrorism or transnational organized crimes.

Under these circumstances, the WPA interacts with witnesses who are direct VoT. Allegedly, by the time witnesses reach the WPA, they may be uncooperative due to past negative experiences from interrogations with law enforcement., the WPA’s risk assessment of witnesses is a continuous process – as they build rapport over time, the more information they are able to collect. The WPA has a psychosocial department that works alongside their officers when they work with traumatized witnesses or any VoT.

4.3 Law Enforcement - What are the VoT Engagement Gaps?

To develop and strengthen law enforcement engagement with VoT, the below areas were identified as priorities by interviewed law enforcement officers.

Though the Constitution under Article 50(9) addresses the Victims Protection Act, the rights of victims are not stated implicitly nor explicitly. Considering clarity and elaboration in regard to the existing Victims Protection Act and POTA, or the enactment of a Statute on VOT, is assessed as important for improving engagement with victims.

Additionally, many returnees continue to be treated with suspicion, partly due to the lack of a legislative framework guiding engagements with returnees. Whether it is the NCTC or police who are responsible for returnees varies from case to case. Complicating matters further, when state agencies arrest returnees, it often discourages others from returning or reporting to the authorities. This highlights the need for a clear-cut SOP for engaging returnees and implementation of the amnesty.

⁵¹ Office of the Director of Public Prosecutions, Strategic Plan 2016-2021, “The role of the ODPP in Kenya’s Development Agenda – Vision 2030,” February 2017, <https://www.odpp.go.ke/wp-content/uploads/2017/03/STRATEGIC-PLAN-2016-2021.pdf>

⁵² Relevant to note that Section 30(D) of the POTA uses the term FTF not for Kenyans who travel to Somalia to join al-Shabaab but for any “person who is not a Kenyan citizen who enters or passes through Kenya for purposes of engaging in terrorist activities in Kenya or elsewhere.”

⁵³ Important to note that under Section 30(C) of the POTA, travelling to Somalia to join al-Shabaab is considered an offence.

⁵⁴ Witness Protection Agency, <https://wpa.go.ke/>

4.4 Civil Society and Human Rights Organizations - Policy and Legislation Guiding Duties

The civil society organizations (CSO) interviewed include advocates for human rights, transformative justice, security, governance, economic and social justices, identity and inclusion, anti-radicalization, and police reform and accountability.

Most of the civil society or human rights organization representatives interviewed adhered to policies that mainly address the rights of secondary and indirect victims of terrorism, while none had policies in place for direct VoT. In their support for VoT, the CSO respondents stated that policies relating to victims' compensation do not exist. Financial support to VoT, for example, hospital costs, is not provided by the state. A key question that emerged from interviews and in discussion with interviewees was: how could CSOs develop mechanisms to support the rights of VoT's inducing their medical, health, mental, and other needs?

The CSO representatives interviewed stressed that though there is a Victims Protection Act, regulations on implementation are yet to be developed, while noting that the existing victims' compensation fund only exists "on paper and is not operational". Interviewees recommended the government to assess and operationalize the existing acts to identify how best to support VoT. To fill the financial gap, some private sector companies, in partnership with CSOs, have conducted fundraising campaigns and outreach initiatives for victims of terrorist attacks.⁵⁵ The funds raised for the 2013 Westgate Mall attack, for example, were channelled through the Kenya Red Cross, which was among the first emergency responders to assess the scene.

Some of the CSO representatives interviewed believe that at times international NGOs act as a de facto government. They questioned the government's national disaster centre's role, and many emphasized that, the response, funding, donations, and information

relating to terror attacks should be managed by the government. In particular, interviewees queried whether the National Disaster Management Unit (NDMU), which falls under the Ministry of Interior and Coordination of National Government, should also incorporate responses for terrorist acts.⁵⁶ To do so, interviewees stressed, the government would need to assess the NDMU's National Emergency/Disaster Plans and SOPs to determine how best to link it to the needs of VoT. This framework would need to also encompass policies and mechanisms on how to enhance coordination between the various state response agencies.

4.5 Civil Society and Human Rights Organizations - VoT Perceptions of Law Enforcement

Q. How do you handle VoT?

A. That is the problem, victims are often treated as perpetrators by police.

A majority of the CSO representatives interviewed believed that the state security apparatus often responds indiscriminately to acts of terrorism. Respondents assume that some of the security agencies do not believe in deradicalization or amnesty efforts, and rather prefer extrajudicial responses to perpetrators. Contradictorily, respondents also stated the need for extrajudicial responses when investigators and prosecutors are unable to gather the necessary admissible intelligence as evidence in courts for convictions. Respondents further stated that Kenyan law enforcement agencies "have a history of violating human rights in carrying out their duties". An example several interviewees accounted for is the death of six people following law enforcement's extrajudicial response in enforcing the dusk-to-dawn curfew to contain the spread of COVID-19, imposed on 27 March 2020.⁵⁷

⁵⁵ Safaricom Disaster response - A partnership between the Safaricom Limited and Kenya Red Cross has centered on the delivery of humanitarian services to vulnerable persons. Following the unfortunate Westgate Shopping Mall terror attack Safaricom launched a nationwide mobile money transfer through M-Pesa line 848484 that enabled the public to raise funds for victims. <https://hapakenya.com/2013/09/27/how-the-money-raised-for-westgate-victims-via-safaricom-will-be-spent/>

⁵⁶ National Disaster Management Unit, accessed 19 January 2021, <https://disastermanagement.go.ke/>

⁵⁷ Human Rights Watch, Kenya: Police Brutality During Curfew, Several Dead, Others with Life-Threatening Injuries, 22 April 2020, <https://www.hrw.org/news/2020/04/22/kenya-police-brutality-during-curfew>



Another example provided accounts for excessive and extrajudicial law enforcement response as part of the large-scale anti-terror operation “Usalama Watch” in April 2014, during which more than 4000 people – mainly of Somali ethnicity – were arrested across the country. Amnesty International was quoted: “Kenya’s Somali community is being scapegoated in a counter-terror operation which has seen thousands subjected to arbitrary arrest, harassment, extortion, ill-treatment, forcible relocation and expulsion”.⁵⁸ The CSO representatives interviewed question how the special needs of VoT could be addressed within this extrajudicial violence. It was highlighted that the Constitution provides for the rights of an accused person to seek legal options to pursue legislation under its Victims of Crime edict, but that with both counterterrorism measures and terrorism acts, it remains unclear who is culpable.

The interviewees also cited the fact that there is no precedent where any victims of terror acts in Sub-Saharan Africa have been compensated or received reparations, as another reason CSOs do not engage with direct VoT. Several recently published news articles highlight this same concern where Kenyan and Tanzanian citizens who were victims of the 1998 US Embassy bombings are yet to receive compensation, unlike their US citizen counterparts.⁵⁹

The CSO interviewees stated that VoT may acknowledge that the government is not the cause nor responsible for their suffering, though they may perceive that the state failed to protect them. They further stated that some of the VoT they have worked with in the past hold the international community responsible in failing to support and fund victim-based initiatives and programs, while development funds are allocated to state and law enforcement support and training.

4.6 Civil Society and Human Rights Organizations - What are the VoT Engagement Gaps?

Given that there is no legislation or policy for the direct support of VoT in Kenya, CSOs suggest that memorialization of victims should be the very minimum state response. Similar to the August 7th Memorial Park in Nairobi, CSOs stressed that both the 2013 Westgate and 2015 Garissa University attack surviving victims could find some solace and comfort in the memorialization of those who were killed.⁶⁰ Respondents further agree that the government needs to populate the compensation funds as per mandated in the various Acts. There is a perception that the state is not prioritizing its efforts regarding investing in the VoT compensation funds, even though the funds should be derived from the frozen accounts of terror suspects. It is also noted that the criteria, accountability, and monitoring of the allocated funds, i.e. the forfeits of proceeds of crime, should fall on CSO or any other independent institutions.

⁵⁸ Amnesty International, “Kenya: Somalis Scapegoated in Counter-Terror Crackdown,” 27 May 2014, <https://www.amnesty.org/en/latest/news/2014/05/kenya-somalis-scapegoated-counter-terror-crackdown/>

⁵⁹ “The American citizens were compensated – including those who lost their relatives – under the ‘Victims of Terrorism Act’. Each injured person or family of a deceased person received \$10 million or more from their government. But there was no compensation for foreign nationals like the Kenyans and Tanzanians who died or were injured in the bombing.” The East African, Blind Lawyer Wants to See Justice Finally Served, 12 December 2020, <https://www.theeastafrican.co.ke/tea/magazine/blind-lawyer-wants-to-see-justice-finally-served-3226658>

⁶⁰ 7th August Memorial Park, “The existing Memorial Park serves as a tribute to those who lost their lives on the 1998 US Embassy bombings. The Memorial also functions a place where the public could be educated about the appalling consequences of terrorism and violence and the need for peace, tolerance, and reconciliation.” <http://memorialparkkenya.org/>

5. RECOMMENDATIONS

The former Special Rapporteur on Promotion and Protection of Human Rights set out one of the first comprehensive lists of recommendations for securing the human rights of VoT, in the 2012 report “Framework Principles for Securing the Human Rights of Victims of Terrorism”.⁶¹ In 2015, the UNODC followed with a set of wide-ranging practices and recommendations in its “Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework”.⁶² The UN General Assembly formally adopted Resolution 73/305 “Enhancement of International Cooperation to Assist Victims of Terrorism,” on its 73rd session held on 28 June 2019. The agenda lays out an exhaustive list of recommendations for Member States⁶³, and “[c]alls upon all Member States to develop comprehensive assistance plans for victims of terrorism, consistent with domestic law, taking into account a gender perspective, to address the immediate, short-term and long-term needs of victims of terrorism and their families with regard to their relief and rehabilitation, ensuring that they are provided with proper support and assistance, both immediately after an attack and in the long term, including through the sharing of best practices and lessons learned related to the protection of and assistance to victims of terrorism”.

The recommendations captured in this section, which are the results of the analysis of the desktop review and stakeholder interviews conducted, closely align with those of UN General Assembly Resolution 73/305.

5.1 Capacity Building

The international community is to ensure their support to law enforcement is not counterproductive, and at a minimum, beneficiary institutions should be held accountable whenever human rights violations are

committed and establish conditionality on security funding. All training and capacity building for the law enforcement should, at a minimum, include the following:

- **Content:** Practical and in real time-trainings that mimic the operational environment, rather than solely focus on theoretical courses;
- **Impact:** Long term engagement where programs are designed for three to five-year delivery cycles;
- **Sustainability:** “Train the trainers” component;
- **Gender equality and sensitivity:** Adopt a gendered mainstreaming approach;
- **Assessments:** Include yearly assessments, monitoring, evaluation, tests, and follow up.

5.2 Legislative Support to the Criminal Justice System

There is a legal framework for Victims of Crime that could be a starting point for the legislative support. A two-pronged approach could be to introduce an amendment to the Victims Protection Act that specifies VoT as a category of vulnerable victims, and an amendment to the POTA could, if introduced, define VoT. Secondly, the yet to be formulated regulations under the Victims Protection Act, could introduce a fuller categorization of victims to include VoT. Similarly, the regulations under Section 49 of the POTA could also be used as an entry point for definition.⁶⁴ The regulations should:

⁶¹ The former Special Rapporteur list of recommendations captured in his 2012 report titled, “Framework principles for securing the human rights of victims of terrorism,” can be found here: https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-14_en.pdf

⁶² UNODC Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework, 2015, https://www.unodc.org/documents/terrorism/Publications/Good%20practices%20on%20victims/good_practices_victims_E.pdf

⁶³ The UN General Assembly RES 73/305 recommendations from 2019 can be found here: <https://undocs.org/en/A/RES/73/305>

⁶⁴ Noteworthy is that the risk of regulations is that they could easily be amended either to the benefit or detriment of VoT.

- **Provide the ATPU with assistance to develop a comprehensive internal manual/ SOPs** to guide their engagement with VoT. Based on the manual/SOPs, ATPU should be supported to consolidate and institutionalize their support to VoT, while ensuring that the manual/SOPs are appended to the National Police Service Standing Orders, which would carry more weight if including e.g. disciplinary consequences for non-compliance.
- **Support the National Police Service (NPS) and the Directorate of Criminal Investigations (DCI)** in their efforts to include considerations for VoT in the current revisions of the Service Standing Orders.
- **Promote interagency responses with regard to the management of VoT.** Since not all witnesses give evidence, a holistic approach could be for a team of ATPU, ODPP, WPA and Victim Protection Agency to identify those that need protection as witnesses, and those that require facilitation as VoT; whether short, medium or long term.
- **Support County-level VoT legislation,** including exploring the possibility of county-level legislation and/or regulations in compliance with the Constitution and domestic laws, for a more holistic and inclusive approach to address the needs of VoT. Institute longer duration induction courses for new prosecutors and train counterterrorism officers at the same rigorous level as the WPA officers who receive a minimum six-month induction. These officers should similarly be trained on integration skills and how to win rapport and gain confidence of witnesses.

5.3 Joint LE Trainings

In regard to law enforcement capacity building, it is recommended to:

- **Conduct joint law enforcement trainings** that include investigators, intelligence officers, prosecutors and magistrates, across the criminal justice system to support a holistic approach in ensuring VoT rights and needs.
- **Train and support Kenya emergency/rapid response teams** in providing immediate support to VoT and eyewitnesses in coordination with law enforcement.

- **Develop counterterrorism SOPs** that must i) be adopted at the highest levels of government, and ii) have clear administrative coverage to address the rights and needs of VoT.
- **Emphasize and reinforce human rights training** across all law enforcement agencies.
- **Develop and provide curriculums** on professionalism, code of conduct, ethics and ethos, and honesty and integrity.
- **A central authority should lead coordination of VoT policies** and acts and ensure that the guidelines are reflected in practice by law enforcement agencies on the ground.
- **Adopt a gendered mainstreamed approach** in developing victim assistance plans and consult expertise on gendered approaches.
- **Assist the National Disaster Management Unit (NDMU)** to assess the Emergency/Disaster Plans to determine how best it could enhance coordination between the various state response agencies, if and when possible.

5.4 Public Outreach, including Media Campaigns

Public outreach initiatives should:

- **Harmonize public communication on VoT** needs and special protection for public support.
- **Create platforms that allow for communication exchanges** between the police and other officers dealing with counterterrorism and members of the public.
- **Support improved relationships and dialogue** between law enforcement and local communities by conduct of dialogue-centred events.
- **Assign a “VoT Ambassador”** who could be the “face” of the government-led efforts to support victims.
- **Provide a safe platform for VoT** grievances and experiences to be expressed and heard.

- **Support the creation of television shows, radio programs, and social media engagement** to inform the public of the need to create support for VoT.
- **Help institute VoT memorialization** to ensure communities do not forget victims, while providing recognition of their experiences. An example could be the establishment of a national VoT Day.

5.5 Trauma Healing & Psychosocial Support

Trauma healing and psychosocial support should include:

- **Providing trauma healing and psychosocial support to law enforcement and other counterterrorism first responders.**
- **Providing trauma healing and psychosocial support to all the classifications of VoT groups.**
- **Ensuring that trauma healing and psychological support has been vetted and is gender sensitive.**

5.6 Financial Sustainability

Financial sustainability of supporting VoT entails:

- **Operationalizing the various government assigned compensation funds**, such as the Victims of Terrorism Compensation Fund, per

existing domestic and counterterrorism laws. Such an action should be done in consultation with proposed beneficiaries or their representatives.

- **Prioritizing and securing government budget lines** to address the various needs of VoT.
- **Establishing an autonomous body** that could conduct independent fund-raising for the needs of VoT.
- **Encouraging international donors to prioritize comprehensive assistance plans to VoT**, in line with domestic law.

5.7 Further Research

Subsequent research should:

- **Ensure qualitative and evidence-based research initiatives** involving interviewees who work on issues and cases relating to direct VoT.
- **Identify how Kenya could adopt the UN General Assembly Resolution “Enhancement of international cooperation to assist victims of terrorism”⁶⁵ general recommendations to support VoT.**
- **Identify how VoT needs may have changed**, and subsequently develop corresponding evidence-based strategies to support these needs; both at the individual and community-levels.
- **Identify how CSOs and communities could lead on championing VoT’s needs and rights.**
- **Conduct assessments and research** for thematic briefs in all the EAPCCO Member Countries.

⁶⁵ United Nations General Assembly, 28 June 2019, <https://undocs.org/A/RES/73/305>



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