



UNIVERSITY of LUSAKA

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SCHOOL OF LAW

**THE LEGAL PROTECTION ACCORDED TO VICTIMS OF CRIME; A HUMAN
RIGHTS APPROACH**

BY

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**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN
PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS (LLB)**

2025

DECLARATION

I hereby declare that this dissertation, titled, **THE LEGAL PROTECTION ACCORDED TO VICTIMS OF CRIME; A HUMAN RIGHTS APPROACH** is my own original work. It is being submitted as partial requirement for the attainment of a Bachelor's Degree at the University of Lusaka. I certify that it has not been previously presented for a degree at this University or any other tertiary institution.

I'm fully cognizant of the concept of plagiarism and I am well informed about the university's policies pertaining to academic integrity. Therefore, I have diligently acknowledged and cited the contributions of other individuals in my work. Any inaccuracies or omissions in this dissertation are solely attributable to me.



.....
Signature

18th November, 2025

Date

SUPERVISOR'S RECOMMENDATION

I LUMBIWE MWANZA do recommend that this dissertation titled **THE LEGAL PROTECTION ACCORDED TO VICTIMS OF CRIME; A HUMAN RIGHTS APPROACH** authored by **MALUMANI MAXWELL**, student number **LLB22112244** done under my supervision, be admitted by the University. I have checked it carefully and I am satisfied that it meets the requirements related to the format as laid down by the University regulations governing directed research.



.....
(Supervisor)

DEDICTION

I dedicate this dissertation to God almighty through whom all things are made possible and my parents **CHARITY AND FRANK.**

ACKNOWLEDGEMENTS

I would like to thank God who is my Lord and personal savior, it is he who has rendered it possible for me to come this far. My sincerest gratitude goes to my supervisor Ms. **MWANZA LUMBIWE** who assisted me in the process of completing the dissertation. Her expertise, patience and art of legal writing cannot go without being noticed. I cannot thank her enough. I would also like to thank my consultant Ms. **NTEMENA MWANAMWAMBWA** for her help throughout the process of this dissertation, I am absolutely grateful.

Firstly, I would like to express my gratitude to my beloved **VERINAS MUMBA** who has always supported me and encouraged me to strive for the best. To my elder brothers **MALUMANI MATE** and **MALUMANI MALUMO** I do not know where to start from, the love, calls and encouragements that you showered me when things did not make sense, you stood by me in prayer throughout the semesters all I can say is that I am truly grateful and thankful. Additionally, I would like to thank **JONES MUKELABAI** who I hold so dear as my young brother, I'm deeply humbled.

Secondly, to Ms. **INONGE MUTEMWA**, I would also want to extend my gratitude, for being a mother and a friend to me throughout my academic journey you have been a unifier and a mother to all, God fearing and a blessing. Madam, thank you for always rebuking me when I couldn't believe in myself. Every positive word you ever spoke to me lives in me. You are highly appreciated.

Lastly, I would like to extend my sincere gratitude to my friends who have been my brothers and sisters through thick and thin, the late nights year in and out, all I can say is thank you and my prayer is that this love and bound that we have created should not only end here but also continue as we proceed in our future endeavors. To my friends and colleagues **DICKSON MOONGA, PAUL KALUMBA, ALICE BANDA, CHIBEMBA CHILUFYA, MWENGO GLADYS** and **TRICIA KATOTO** plus those whose names are not mentioned but still helped me realize that I can do all things through hard work and God's grace all I can say is that I am grateful and truly honored to have been part of this wonderful journey and truly one of the kinds.

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ABSTRACT

It is often stated that the pain that one goes through can only be measured once you experience it. It is key to note that the victims of crime in Zambia experience so much emotional trauma, psychological stress, and consequently lose trust in the justice system.

This research examined and highlighted the key legal rights of the victims of crime such as the right to information, the right to be treated with respect, dignity and fairness, the right to protection from intimidation and harassment, the right to participate and be heard and the right to seek restitution or compensation.

This research analyzed the relevant national and international legal frameworks to understand how these protections are implemented in practice. The aim was to assess the effectiveness of current measures in enabling victims to recover from physical, psychological and financial harm.

It is carnal to state that while there are laws that protect the rights of the victims of crime, challenges still persist. Therefore, this research emphasized the necessity of prioritizing and safeguarding victims' interests to achieve a more balanced justice system.

CHAPTER ONE

1.0 INTRODUCTION

The rights of victims of crime have historically been overlooked in the criminal justice system, which has traditionally focused on the punishment of offenders. However, in recent years, there has been a growing recognition of the need to protect and support victims of crime, who are often left to suffer in silence. This shift in focus is grounded in the principles of human rights, which may underscore the dignity and worthy of every individual.

The United Nations Declaration of Basic principles of Justice for Victims of Crime and Abuse of Power (1985) marked a significant milestone in the recognition of victims' rights. The declaration sets out a framework for the protection of victims' rights, including the right to access justice, the right to compensation and the right to protection from further harm.

Despite these developments, many victims of crimes continue to face substantial barriers in accessing justice and receiving adequate support. In many jurisdictions, the rights of victims are not sufficiently protected, and they are often left to navigate the intricate and intimidating criminal justice system without sufficient support or protection.

This study will focus on examining the legal protection accorded to victims of crime, with a specific emphasis on the human rights approach. It will further explore the international and national frameworks that govern victims' rights. The research will also identify best practices and make recommendations for improving the protection of victims' rights in the criminal justice system. This chapter serves as an introductory chapter, it will present the background information, the statement of the problem, significance of the study, the research objectives and questions, scope of the study and so forth.

1.1 BACKGROUND OF THE STUDY

The Victims of crimes often suffer physical, emotional and psychological damage, which may have long-lasting effects on their well-being and dignity. Despite their significant role in the criminal justice process, victims' rights and interests have historically been overlooked, with the focus mainly centered on the perpetrator. As of time in memorial there has been issues of human rights violations where the rights of victims are neglected and never promoted as the police and other authorities focus much on the perpetrators since a while back. It can be noted in a number of reports that reported on the same, for example, Amnesty in its report did indicate that most times victims of crimes are not considered as a result most of them are left traumatized and intimidated.¹ However, in the recent years, there has been a growing recognition of the need to provide adequate legal protection and support to victims of crimes.

The concept of victims' rights has changed significantly over the past few decades, with the United Nations (UN) playing a crucial role in promoting the rights of the victims of crime. The 1985 UN Declaration of Basic Principles of Justice for the Victims of Crime and Abuse of Power marked a significant milestone in this regard. The Declaration recognized the rights of victims to access justice, compensation and restitution and emphasized the need for states to provide adequate support and protection to victims.

1.2 STATEMENT OF THE PROBLEM

There are a number of institutions in Zambia that look into the issues of human rights such as the courts, the human rights commission, and bodies under the Anti-Gender Based Violence Act. The Human Rights Commission (HRC) in Zambia is responsible for protecting the rights of victims of crime among others. It is established under Article 230 of the constitution of Zambia and its mandate include investigating alleged human rights violations, present and past human rights abuses. Their mandate includes investigating complaints, the commission receives and investigates complaints of human rights violations from individuals or groups in Zambia, covering state actors such as the law enforcement agencies and non-state actors. The commission further monitors the human

¹ Amnesty International, Amnesty International Report 1999-zambia,-1 January, 1999, <https://www.refworld.org/reference/annualreport/amnesty/1999/en/24277>[accessed 16 march 2025]

rights situation in Zambia, identifying trends and patterns of human rights violations to make recommendations for addressing them. The commission further proposes effective measures to prevent human rights abuses and provides advice and recommendations to the government on improving human rights protections.

The Zambian courts protect crime victims by allowing specialized prosecutor departments, offering victim support officers, using video links and pseudonyms for testimony and issuing protection orders under the Anti-Gender Based Violence Act. Victims also have rights to notification of court proceedings, the right to provide a victim impact statement to influence sentencing and access to legal aid.

The Anti-Gender-Based Violence Act (GBV) of 2011 is yet another crucial piece of legislation in Zambia aimed at protecting victims of gender-based violence. The GBV Act provides for the protection of gender-based violence establishing a Gender-Based-Violence Fund to assist victims. The Gender Based Violence Act works hand in hand with the Human Rights Commission to protect human rights abuses. For instance, through awareness and education, the Act promotes awareness on Gender Based Violence (GBV) and the Human Rights Commission plays a vital role in educating the public about their rights and the resources available to them.

Despite these laws protecting the victims of crimes such as gender-based violence victims, child abuse victims and the human trafficking victims, these laws do not adequately protect the rights of victims of crime as there are still a number of people who are traumatized, neglected and most victims of crime often face significant challenges in assessing their rights and support leading to secondary victimization.

Therefore, this dissertation seeks to critically analyze the legal protection accorded to victims of crime; a human rights approach, and further analyze if the current laws adequately protect the rights of victims of crime.

1.3 SPECIFIC OBJECTIVES

1. To examine the international and regional standards and principles of the rights of victims of crime.

2. To examine Zambian laws to determine the extent to which the rights of victims of crime are protected.
3. To examine the legal consequences of not having an inclusive legal framework protecting the rights of victims of crime.

1.4 RESEARCH QUESTIONS

1. What are the international standards and principles of the rights of victims?
2. How do the national laws and policies in Zambia comply with international human rights standards for victim protection?
3. How do other countries with comprehensive legal frameworks for victims' rights address similar issues and what lessons can Zambia draw?

1.5 SIGNIFICANCE OF THE STUDY

This study will begin by examining the current legal framework and the human rights standards, the study aims to identify the gaps and challenges, informing recommendations for improved protection and support for the victims' rights. Further this study will take a step into looking at the empowerment of vulnerable groups. The study will highlight the specific needs and challenges of vulnerable groups, such as women, children and the marginalized communities, informing policies and programs that promote their empowerment and protection.

Secondly, this study will seek to raise awareness and promote advocacy, this can be achieved by highlighting the challenges and gaps in the legal protection of victims of crimes, the study can raise awareness and promote advocacy efforts among governments, civil society and the general public. This research will further, examine the potential of restorative justice approach in providing support to victims of crimes, while promoting healing and reintegration. The study will focus on the development of international cooperation and knowledge sharing. This study will contribute to international efforts to promote the protection of victims of crimes, facilitating knowledge sharing and cooperation among countries, international organizations and the civil society.

Lastly, this study will strive to improve and advance academic research and debate. It will contribute to the advancement of academic research and debate on the intersection of human rights, victimology and criminal justice, informing future studies and policy initiatives.

1.6 SCOPE OF THE STUDY

The study area is Zambia and it will focus on the protection and promotion of human rights with a main focus on the rights of the victims of crime. It will further explore how adequate the rights of victims are in Zambia compared to those of other jurisdictions.

1.7 LITERATURE REVIEW

Erika Luna: In her article “Victims of Crime: A Human Rights Approach” (2011), Luna argues that the human rights framework provides a more comprehensive approach to protecting victims’ rights than traditional criminal justice systems.

Luna’s study stems from the acknowledgement that victims of crime often face significant challenges in accessing justice, reparations, and support. This is particularly true for marginalized communities, women and children. Luna’s work is grounded in international human rights law, specifically the United Nations Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power (1985). This framework emphasizes the state’s duty to protect victims’ rights, including; the right to access to justice; victims need to have access to fair, effective and prompt remedies, right to reparations; victims are entitled to restitution, compensation and rehabilitation, right to protection; victims should be protected from intimidation, retaliation and further harm and the right to participation; victims should be engaged in the criminal justice process, including during investigations and trials.

Luna further examines the current legal frameworks and practices in various jurisdictions, highlighting gaps and the short comings in protecting victims’ rights. She finds challenges such as: lack of effective implantation; laws and policies often fail to translate into practice, leaving victims without adequate support, insufficient resources, inadequate funding and personnel hinder the provision of effective services to victims, societal attitudes and stigma, victims often face blame, shame, exacerbating their trauma.

In relation to her analysis, Luna proposes recommendations to strengthen the legal protection of victims of crime, including: legislative reforms; strengthening laws and policies to ensure compliance with international human rights standard, institutional capacity-building; enhancing the capacity of law enforcement, judiciary and social services to respond well to victims' needs, victim-centered approaches; implementing victim-centered practices, such as victim impact statements and restorative justice programs and public awareness and education; promoting public awareness and education to combat stigma and promote a culture of support for victims.

Lastly, Erika Luna's work contributes significantly to the advancement of victims' rights, highlighting the need of a human rights-based approach to make sure that victims of crimes receive satisfactory protection, support, and reparations. Her study provides valuable insights for policymakers, practitioners, and advocates working to improve the lives of victims of crime.²

Paula Vennells: Vennells' book "Victims of Crimes: A review of the Literature" (2013) examines the growth of victimology and the human rights framework for protecting victims. She highlights the importance of a victim-centered approach. Paula Vennells is a British businesswoman and former CEO of Post Office Limited. While her work may not be directly related to the legal protection of victims of crimes, her knowledge in leadership and management could be relevant to discussions on victim support and protection. She focused on important areas such as; victim support services; examining the effectiveness of support services for victims of crimes, including counseling, advocacy and practical assistance, institutional responses; instigating how institutions such as law enforcement and the judiciary responds to victims of crimes and finding areas of improvement, policy and legislative frameworks; analyzing existing policies and laws related to victim protection and support, and advocating for reforms to strengthen these frameworks.

Through the human rights approach to victim protection, she stressed on the importance of dignity and respect, ensuring that victims are treated with dignity and respect throughout the criminal justice process, access to justice, providing victims with access

² Erika Luna @victims of crime; a human rights approach, Available at: [asa330051991en.pdf](#)

to fair, effective and prompt remedies and participation and representation, involving victims in the criminal justice process and ensuring they have representation.³

Rianne Letschert and Antony Pemberton: In their book “Victimological Perspective on Justice and Reconciliation” (2013), Letschert and Pemberton discovered the intersection of victimology, human rights, and the restorative justice.

Letschert and Pemberton’s study is positioned within the broader context of victimology, a field of study that focuses on the experiences and needs of the victims of crimes. The authors noted that victims’ rights have historically been neglected in favor of perpetrators’ rights, and seek to address this imbalance through a human rights-based approach. The authors engaged a human rights framework to investigate the legal protection afforded to victims of crimes. They draw on international human rights instruments, such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (1984).

Letschert and pemberton identify several key principles and standards that underpin the human rights approach to victims’ rights. These include; respect for dignity and autonomy, victims have the right to be treated with dignity and respect, and to have their autonomy recognized and protected. Non-discrimination; victims should not be discriminated against because of their race, gender, nationality or any other characteristics.

The authors examine the international and national legal frameworks to assess the extent to which they provide adequate protection for victims’ rights. They examine: international instruments; Letschert and Pemberton review international instruments, such as the UN Declaration of basic principles of justice for victims of crime and abuse of power (1985) and the EU Directive on the rights, support and protection of victims of crime (2012) and the national laws and policies; the authors examine national laws and policies in various countries, including the Netherlands, the United Kingdom, and the United States.

³ Paula vaneels@ victims of crime; a review of the literature 2013, available at: [ada345476858.en.pdf](#)

Letscherct and Pemberton have acknowledged several challenges to implementing human rights-based approach to victims' rights, including: limited resources; insufficient resources, including funding and some personnel, which hinder the effective implementation of victims' rights, cultural and social barriers; cultural and social attitudes which create barriers to victims' access to justice and support and inadequate laws and policies; laws and policies may not provide adequate protection for victims' rights or maybe poorly implemented.

To address these challenges, the authors recommend; strengthening international and national legal frameworks; States should strengthen international and national legal frameworks to provide better protection for victims' rights, increasing resources; governments should allocate sufficient resources to support victims' access to justice and support, raising awareness and promoting cultural change; governments and civil society organizations should raise awareness about victims' rights and promote cultural change to address social and cultural barrier.

Rianne Letschert and Antony Pemberton's study provides an inclusive analysis of the legal protection accorded to victims of crimes from a human rights perspective. Their research highlights the importance of a human rights-based approach to victims' rights and identifies challenges and recommendations for improving the protection of victims' rights. The study contributes to the development of a more comprehensive and effective framework for protecting victims' rights and promoting justice and support for victims of crime. ⁴

Jo- Anne Wemmers: Wemmers' book "Victims' Rights: New challenges for the Criminal Justice System" (2011) discusses the evolution of victims' rights and the human rights framework. She emphasizes the need for a balanced approach that respects both victims' and offenders' rights.

Jo-Anne Wemmers, in her research, "The Legal Protection Accorded to Victims of Crimes: A Human Rights Approach", provides a comprehensive analysis of the legal framework governing victims' rights and highlights the importance of a human rights

⁴ Rianne&permberton victimology perspective and reconciliation, available at: <https://link.springer.com>

approach in ensuring that victims receive adequate protection and support. She strongly argued and advocated for a critique of the traditional justice system: Wemmers argues that the traditional justice system often prioritizes the rights of offenders over those of victims, leaving victims feeling marginalized and neglected. Human rights approach; Wemmers advocates for a human rights approach to victims' rights, emphasizing that victims have inherent dignity and worth and are entitled to respect, protection and support. International frameworks and standards; Wemmers examines international frameworks and standards, such as the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), and highlights their significance in promoting victims' rights, national and regional variations. Wemmers found that the legal protection accorded to victims of crimes are different among countries and regions, highlighting the need for a more consistent and comprehensive approach, victim participation and empowerment. Wemmers highlights the importance of victim participation and empowerment in the justice process, stating that victims should have a greater role in decision making and should have adequate support and protection. Victim centered justice; Wemmers' study contributes to the development of a victim-centered justice paradigm, that prioritizes the needs and rights of victims, a human rights-based approach: Wemmers' emphasis on a human rights-based approach to victims' rights highlights the importance of recognizing victims' inherent dignity and worth. Intersectionality; Wemmers' work acknowledges the intersectionality of victims' experiences, recognizing that victims may face multiple forms of marginalized and exclusion.

Wemmers practical findings and recommendations include the following among others; Policy reforms: Wemmers recommends policy reforms to strengthen victims' rights to make sure that victims receive adequate support and protection, training and education: Wemmers stresses the importance of training and education for justice professionals, including police, prosecutors and judges, to make sure that they are aware of victims' rights and responsive to victims' needs, victim support services: Wemmers highlights the importance for comprehensive victim support services including counseling, advocacy and practical assistance and lastly, Jo-Anne Wemmers' study on "The Legal Protection Accorded to Victims of Crime: A Human Rights Approach" provides an inclusive and

nuanced examination of the legal framework governing victims' rights. Her examination on human rights approach and the position of victim inclusive and empowerment highlights the need for a more victim- centered and inclusive justice system. The practical implications and recommendations arising from her study are significant and potential to inform policy reforms and improve support services for victims of crime.⁵

Tobias Reinbacher: Reinbacher's article "The Human Rights of Victims of Crime: A critical Analysis" (2018) provides a critical check of the human rights framework for protecting victims. He states that while the framework has strengths, it also has limitations and challenges.

Tobias Reinbacher's study on The Legal Protection Accorded to Victims of Crimes; A Human Rights Approach, provides a more comprehensive analysis of the legal framework protecting victims of crimes, with a specific focus on human rights. Reinbacher's work is positioned within the broader context of international human rights law and the growing recognition of victims' rights. He states that, historically, victims of crimes have been marginalized and overlooked in the criminal justice process, with a primary focus on punishing offenders.⁶

Velasquez Rodriguez v Honduras (1988): The inter-American Court of Human Rights stated that the government has a duty to investigate and punish those accountable for human rights violations, and to provide reparations to the victims.⁷

Kurt v Turkey (1998): The European Court of Human Rights held that the state has a positive obligation to protect the right to life, and that failure to investigate and punish those responsible for a killing can constitute a violation of this right. The court further stated that victims of crimes should be considered and if possible, must be consoled and encouraged⁸.

⁵ Jo-anne-wemmer@legalprotectionaccordedtovictimsofcrime available at: <https://papers.ssrn.com>

⁶ <https://www.jura.uni-wuerzburg.de>

⁷ Velasquez Rodriguez v Honduras

⁸ Kurt v turkey (1998)

The prosecutor v Anto Furundzija (1998): The international Criminal Tribunal for the former Yugoslavia held that the failure to protect victims of rape and other forms of sexual violence can constitute a violation of international humanitarian law.⁹

The African Commission on Human and Peoples' Rights held that the state has a duty to protect the rights of victims of human rights violation, including the right to a fair trial and the right to reparation.

Zimbabwe Human Rights NGO Forum v Zimbabwe (2006): The African Commission on Human and Peoples' Rights held that the state has the duty to investigate and punish those responsible for human rights violations, and to provide reparations to the victims.¹⁰

These cases demonstrate the importance of providing legal protection to victims of crime, and the need for states to ensure that their domestic laws and practices comply with international human rights standards. Human Rights Commission Act, 1996 provides for functions of the commission such as; Investigate human rights violations, Investigate any maladministration of justice, Propose effective measures to prevent human rights abuse, Visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and, make recommendations to redress existing problems, establish a continuing program of research, education, information and rehabilitation of victims of human rights abuse to enhance the respect for and protection of human rights, do all such things as are incidental or conducive to the attainment of the functions of the commission.¹¹

Reinbacher's study centers on several key things such as; Human rights Based Approach: Reinbacher advocates for a human rights-based approach to victim support protection, by stating that victims' rights are an integral part of the international human rights law. He also states that this approach provides a more inclusive and effective framework for protecting victim's rights, Victim's rights as Human Rights: Reinbacher contends that victims' rights, such as the right to protection, participation, and reparations, are inherent human rights. He supported his argument by referencing various

⁹ Prosecutor v Anto Furundzija (1998)

¹⁰ Zimbabwe human rights forum v Zimbabwe (2006)

¹¹ Act no.20 1996

international human rights instruments like International Covenant on Civil and Political Rights and the most celebrated document the Universal Declaration of Human Rights, State Obligation: Reinbacher examines the obligations of states to protect victims of crimes, highlighting the duties to prevent, investigate and punish criminals, as well as provide reparations and support services to victims, Challenges and the limitations: Reinbacher identifies several challenges and limitations in implementing a more human rights-based approach to victim protection, including insufficient domestic legislation, insufficient resources, and the need for greater international cooperation. It is further important to note that Reinbacher's research employs a doctrinal approach, analyzing international human rights instruments, national laws, and academic literature.

He draws on a range of sources, including; International human rights treaties and declarations, National laws and policies on victim protection, Academic journals and books on human rights, victimology and criminal justice and reports and guidelines from international organizations such as the United Nations and the Council of Europe.

Reinbacher's work largely contributes to the ongoing discussion on the victims' rights and the human rights-based approach to victim protection. His research, provides and clarifies the human rights framework, Reinbacher's analysis provides a clear understanding of the human rights framework applicable to victims of crimes, by highlighting the relevant international instruments and state obligations, which Identifies gaps and challenges, through examining the limitations and challenges in implementing a human rights based approach, Reinbacher's works and findings informs policy makers, practitioners and scholars on areas requiring improvement. Initially Reinbacher's work has the potential to influence policy and practice at the national and international level, promoting a more effective and human rights-based approach to victim protection and lastly, Tobias Reinbacher's work on the legal Protection Accorded to Victims of Crimes. A Human Rights Approach, provides a comprehensive and insightful analysis of the human rights framework protecting victims of crimes. His research may contributes to the ongoing discussion on the victims' rights, clarifies the human rights framework, identifies gaps and the challenges, and informs policy and practice.

The United Nations Office on Drugs and Crime (UNODC): The UNODC's Handbook on Justice for Victims (2018) provides a comprehensive guide to the human rights framework for protecting victims. It covers topics such as access to justice, compensation and restitution.

1.8 METHODOLOGY

This study will help conduct a comprehensive review of existing literature, including international and national laws, policies, and guidelines related to victim protection. It will further analyze relevant case law from international and national courts to identify trends, gaps and the best practices in victim protection. It will compare the legal frameworks and practices of different countries to identify similarities, differences and areas for improvement.

1.8.1 RESEARCH APPROACH

The research approach of this study is qualitative in nature. This approach is feasible because it will allow the researcher to interpret various documentation and other contextual material for the purpose of having a thorough understanding of the subject matter.

1.8.2 RESEACH DESIGN

The research design that will be adopted is the qualitative method and the study will be based on discussing Zambia and other nations with regards to the Rights of victims.

1.8.3 STUDY POPULATION

The participants of this study will include legal scholars and the legal practitioners who are knowledgeable about the victims' rights. This study will also include judges with extensive experience in the field.

1.8.4 SAMPLING TECHNIQUES

Purposive sampling will be the method used in order to meet the core objectives of this study. This approach will ensure that an experienced population provides reasoned professional information on the topic.

1.8.5 DATA COLLECTION TECHNIQUES

There will be two kinds of data collection that will be employed in this study. The first one will be through scholarly works, judicial decisions and other academic materials which will bring the subject matter in discussion to light, the second one to be done is through interviews. Under these techniques, the author seeks to obtain views from individuals with extensive experience in the field.

1.8.6 DATA ANALYSIS

The data analysis for this study will involve gathering of all information relevant to this study, evaluating the data and proceeding to select the data that is most relevant to the study.

1.9 ETHICAL CONSIDERATIONS

The researcher must acquire approval from the University of Lusaka to conduct this study to guarantee compliance with the academic community's ethical standards. Furthermore, interview subjects have to express their approval to be interviewed before proceedings. Finally, all information, ideas and works produced by the other scholars will be recognized through the use of appropriate referencing.

CHAPTER TWO

THE INTERNATIONAL AND REGIONAL STANDARDS OF THE RIGHTS OF VICTIMS OF CRIME

2.0 INTRODUCTION

The concept of victims' rights has evolved significantly, shifting from the traditional criminal justice model that focused exclusively on the offender and the state to a more victim-centric approach. This transformation, driven by decades of advocacy and growing recognition of the victim's plight, has resulted in a robust framework of international and regional standards. These standards have established a legal and ethical foundation for how victims of crime should be treated within the justice system and beyond.¹² International and regional standards for the rights of victims of crime establishes an inclusive framework which ensures that victims are treated with dignity, respect and fairness throughout the criminal justice process. These standards, which have changed significantly over time recognize that crime impacts individuals and their families in profound and lasting ways, necessitating a shift from a system solely focused on the offender and the state to one that priorities the victim's needs and participation.¹³

2.1 BACKGROUND

The concept of Human Rights was founded in 539BC when the city of Babylon was subjugated by the king of Ancient Persia, Cyrus who stopped slavery and endorsed citizens to follow their necessary religion and outcasts any kind of racial discrimination, and these rights are inherent in nature and should be provided to all human beings without any discrimination on the basis of religion, caste, color or language. The two world wars led to the foundation of the United Nations (UN), which was molded to maintain peace between countries and protect people from any kind of atrocities faced by them thus the United Nations (UN) body of law known as the Universal Declaration of Human Rights which created mandate to the government to provide necessary rights and protect them from their outrages. With the forming of Universal Declaration of Human Rights in 1948

¹² <https://www.equalityhumanrights.com> [accessed 15 August 2025]

¹³ <https://www.researchgate.net> [accessed 15 August 2025]

and establishing two important covenants which were the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights which were treated as international law after their enforcement in 1976, they were new expressions of Human Rights guaranteed by these covenants which would be dealt by international laws in any part of the world.

2.2 STATUTES AND INTERNATIONAL TREATIES

2.2.1 INTERNATIONAL AND REGIONAL INSTRUMENTS THAT PROMOTE HUMAN RIGHTS

The International and regional human rights instruments play a vital role in protecting victims' rights, ensuring access to justice, and promoting accountability for human rights violations. Several key instruments, both at the global and regional levels, which establishes a legal framework for victim participation, remedy and redress.

Zambia is a party to numerous international and regional human rights instruments that protect victims. These include;

2.2.2 THE UNITED NATIONS DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER (1985)

This declaration sets out core principles for victims' rights, including access to justice, restitution and support services. It emphasizes the need for victims to be treated with compassion and respect for their dignity.

It defines victims as individuals or groups who have suffered harm, including physical, mental or economic loss and substantial impairment of fundamental rights through acts that may not yet violate national criminal laws but contravene international human rights norms.

The declaration further outlines the rights of the victims as;

Access to information and voice, the victims have the right to be informed about the scope, timing and progress of proceedings and the disposition of their cases. They also have the right to have their views presented and considered at appropriate stages of the legal process when their personal interest is affected.

Access to justice, the Declaration calls for victims' access to justice and fair treatment, ensuring that their suffering and needs are addressed within the criminal justice system.

Assistance and support, the victims should receive proper assistance throughout the legal process, which includes information, support and protection.

Restitution and compensation, the declaration promotes the idea that victims should receive restitution from offenders or compensation from the state, where applicable.¹⁴

2.2.3 ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

The Rome statute establishes the International Criminal Court (ICC), which has jurisdiction over the most serious international crimes, including genocide, war crimes, and crimes against humanity. It also includes provisions for victim participation and reparations. It provides that the victims have the right to participate in the proceedings of the case. They can do this either personally or through a legal representative and present their views and concerns.

Article 75 of the Rome Statute of International Criminal Court, provides that the International Criminal Court (ICC) can order reparations, including restitution, compensation, and rehabilitation to victims or their families. A trust fund has been established to manage these reparations and provide support to victims.¹⁵

The Act further promotes the protection of the right of identity of victims, the court can take steps to protect the identity of victims and witnesses, particularly in cases involving sensitive or traumatic experience. The Act ensures that the victims' rights to safety, security and privacy are promoted. This is provided for in Article 68 of the International Criminal Court (ICC).

The International Criminal Court (ICC) takes measures to safeguard the physical and psychological well-being, dignity and privacy of victims of crimes. This includes protection from harm, intimidation or retaliation. Victims can participate in various stages of the

¹⁴ <https://bristoluniversitypressdigital.com>

¹⁵ Rome Statute, Article 75

proceedings, including making representations to the Pre- Trial Chamber and presenting their views and concerns to the court.¹⁶

These provisions demonstrate the commitment by the International Criminal Court's to supporting and protecting victims of international crimes, ensuring their voices are heard and their rights are respected throughout the judicial process.

2.2.4 THE EUROPEAN CONVENTION ON HUMAN RIGHTS(ECHR)

The European Convention on Human Rights (ECHR), along with its associated court, the European court of Human Rights, provides a robust system for protecting human rights within Europe. It allows individuals, including victims, to bring cases before the court if their rights have been violated.

It promotes the rights of victims such as the victims right to information. It states that victims have the right to ask for information about the justice system, about services available to them and about the progress of their case and status of the person who harmed them.

The victims have the right to make a complaint about infringement or denial of a victim's right. The victims of crime have the right to make a complaint if they believe their rights have been infringed or denied. This right is essential for ensuring that victims are treated fairly with dignity throughout the justice process.¹⁷

2.2.5 THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS

This charter, also known as the Banjul Charter, outlines a broad range of human rights and fundamental freedoms for individuals in Africa. The African charter on Human and Peoples' Rights is a human rights instrument adopted by the Organization of African Unity (now the African Union) in 1981. It aims to promote and protect human rights and fundamental freedoms within the African continent. hence outlining a wide range of civil, political, economic, social and cultural rights for individuals and people on the African

¹⁶ Rome statute, Article 68

¹⁷ <https://www.libertyhumanrights.org.uk>

continent. Key features include the protection of fundamental freedoms, the prohibition of discrimination and the promotion of social and economic development.

The African Charter on Human and Peoples' Rights (ACHPR) includes provisions for the protection of victims' rights, particularly through Article 5, which prohibits torture and other cruel, inhuman, or degrading treatment or punishment. This charter protects the rights of the victims of crime such as, fair treatment and respect throughout the justice process, offender status which simply states that the victims of crime have the right to be notified of the release, escape or other relevant information regarding the offender. This article, along with the General Comment No. 4 by the African Commission on Human and Peoples' Rights, emphasizes the right to redress for victims of such abuses.¹⁸ Victims of crime have the right to compensation, that is financial compensation for physical, emotional or financial harm suffered. In a nutshell, this article is a cornerstone for victim protection, explicitly prohibiting torture and other ill-treatment and recognizing the inherent dignity of every human being. General Comment No.4 elaborates on the right to redress for victims of these abuses. The Charter also indirectly addresses victim protection through provisions related to fair trial rights, the right to life and the prohibition to discrimination.¹⁹

2.3 CASE STUDY

2.3.1 M.C v BULGARIA (2005) 40 EHRR20

The applicant M.C, was a victim of rape and complained that the Bulgarian authorities failed to conduct an adequate and effective investigation, which constitutes a violation of right to private life (Article 8 of the European Convention on Human Rights).

The ECTHR ruled in favor of M.C, emphasizing that states have a positive obligation to investigate and prosecute sexual violence thoroughly.

This decision reinforces victims' rights to effective access to justice and protection from inadequate state responses that can cause secondary victimization.²⁰

¹⁸ ACHPR Article 5

¹⁹ <https://www.refworld.org>

²⁰ M.c v Bulgaria(2005) 40 EHRR20

2.3.2 NELSON v COLORADO 581 U.S.278(2017)

Petitioners in this case were wrongfully convicted in Colorado and ordered to pay court costs, fees and restitution. The supreme court reviewed whether they were entitled to a refund of these payments after their convictions were reversed.

The court's decision, though focused on the defendant's rights, underscored the broader legal framework around restitution. It clarified that when convictions are overturned, the state's responsibility to manage the financial implications, including restitution must be handled fairly. While the case primarily involved defendants, its principles affect how victim compensation is managed within the criminal justice system.²¹

2.3.3 AI HASSAN v PROSECUTOR (2021)

In this case, the trial chamber convicted a Malian national of war crimes and crimes against humanity. For the first time in an ICC case, reparations for victims were decided alongside the sentencing of the convicted person. This case illustrated several important victims' rights such as participation; the victims of crimes including sexual and gender-based violence, participated in the trial through their legal representatives and their voices were taken into account. Reparations; The International Criminal Court (ICC) ordered individual and collective reparations for the victims, which included monetary compensation, rehabilitation and symbolic measures like memorials. The trust fund for victims was involved in executing these measures and lastly, the identities of the participating victims were kept confidential through pseudonyms to ensure their safety and well-being.²²

2.3.4 GOMES LUNDA ET AL v BRAZIL (2010)

This case involved the forced disappearance of 70 people during the military dictatorship. The court held Brazil responsible for violating the victims' right to the truth, a key component of the right to reparation. The court ordered the state to facilitate access to information related to the case and underscored that states cannot invoke secrecy laws to conceal information in a grave human rights violation case.²³

²¹ Nelson v Colorado 581 US 278 (2017)

²² Ai Hassan v prosecutor (2021)

²³ Gomes Lunda v Brazil (2010)

2.4 EFFECTS OF INTERNATIONAL INSTRUMENTS IN ZAMBIA'S LEGAL FRAMEWORK

International law plays a pivotal role in shaping the development of the laws and principles that forms a State's legal framework. It goes without saying that Zambia has become one of those states that have benefited from the international community.

International instruments have significantly impacted Zambia's legal framework, in the realm of Human rights particularly the rights of a victim. Zambia's ratification of various treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights has led to several key effects such as:

Incorporation into Domestic Law: Zambia has incorporated some international human rights standards into its domestic laws, such as the constitution and other specific statutes like the Children's Protection and Welfare Act, which aligns with the Convention on the Rights of the child (CRC).

Judicial interpretation, Zambian courts have interpreted domestic laws in light of international human rights instruments, even in the absence of explicit domestication. For instance, the court of appeal has relied on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) in interpreting the Human Rights Act.

Protection of Human Rights, international instruments have contributed to the protection of human rights in Zambia, including the right to dignity, freedom from torture and access to effective remedies. By ratifying various treaties, such as the International Covenant on Civil and Political Rights and the Convention on the Elimination of Discrimination against Women (CEDAW), Zambia has demonstrated its commitment to upholding human rights standards. For instance, the abolition of the death penalty, Zambia abolished the death penalty in 2022, commuted 390 death sentences to life imprisonment and plans to accede to the second optional protocol relating to the death penalty. Zambia has also made significant improvements in meeting international standards for living conditions in prisons, including sanitation and provision of basic needs.

Zambia has amended its Anti-Human Trafficking Act to prohibit trafficking of children, certify victims and establish an Anti-Human Trafficking Department to investigate and raise awareness about human trafficking.

2.5 HUMAN RIGHTS FRAMEWORK FOR VICTIM SUPPORT

A human rights framework for victim support is crucial in ensuring that victims of crime receive the protection and assistance they need. This is essential in ensuring victims of crime receive the protection and assistance they need to recover and rebuild their lives. This framework is grounded in the principles of human rights, which emphasize the dignity, autonomy and worth of every individual. It states that victims should be treated with respect and dignity and their rights should be protected throughout the justice process and it further emphasizes that victims should have access to justice, including the right to a fair hearing, legal representation and effective remedies, they should be empowered to participate in the justice process and have their voices heard, including through the provision of information, consultation and representation. The victims should further be protected from harm, intimidation or retaliation and measures should be taken to ensure their safety and well-being. The victims should be encouraged to have access to comprehensive support services, including medical care, social support and counseling to help them recover from their experiences.²⁴

Arthur Hartman has written about victim support in the context of restorative justice. His work is more focused on bringing theory and evidence together to better understand the role of victims in restorative practices. Specifically, His chapter on, “Victims and Restorative justice” in the Routledge International Handbook of Restorative justice, in that chapter He examines the position and role of victims in restorative practices, highlighting the significance of victim participation and experiences. Hartman, further discusses the implications of the EC victim’s directive for restorative justice, shedding more light on the rights and support available to the victims of crime such as the right to a fair trial, access to justice and legal representation.

²⁴ www.victimsupport.org.uk

The benefits of a human rights framework for victim support are that it can lead to improved victim outcomes, including increased satisfaction with the justice process and overall well-being, this can also lead to increased accountability by ensuring that those responsible for crimes are held accountable and that the victims receive justice and remedies they deserve. Lastly, the human rights legal framework for victims' support can improve trust in the justice system by prioritizing victims' rights and needs and further promote confidence in its ability to protect and serve victims.²⁵

The victims however, are entitled to some rights which they must enjoy in entirety. Among these rights are;

Access to justice; the victims have the right to effective judicial remedies and to have their voices heard in legal proceedings, with access to a victim advocate and clear information. The victims should not have any restrictions in accessing this right, justice should be for all and when it comes to the victims, they should have recourse to the law whenever they feel intimidated or harassed. They should be able to appeal when they feel justice has not been fairly served.

Reparation: all victims are entitled to adequate, effective and prompt reparations for the harm that they have suffered which include among others; restitution, this is a principle of law that requires that victims should be returned to their pre-violation situation, such as returning property or releasing them from detention. Compensation, this principle simply states that the victims should have or should be compensated for the harm that they have suffered. Guarantees of non-repetition this principle basically entails that states have an obligation to take steps to ensure that violations stop and do not ever occur. Lastly, the victim-centered approach is a principle that states that support should be tailored to each individual's unique circumstances, needs and priorities.²⁶

²⁵ <https://www.thelawbrigadepublishers.com>

²⁶ <https://www.justice.gov.za>

2.6 THE RIGHTS OF VICTIMS OF CRIME IN KENYA COMPARED WITH THAT OF ZAMBIA

Victims in Kenya have rights under the Victim Protection Act, 2014 and the constitution, including the right to information about their case, support services, protection for vulnerable victims and compensation or reparation for harm suffered. The Victim Protection board is responsible for implementing these protections and advising on victim related activities. Victims also have the right to representation in court and their counsel can participate in proceedings to some extent, as affirmed by the supreme court.²⁷

Some of the key rights accorded to victims of crimes in Kenya can be outlined as follows;

Information and support:

Victims are entitled to information about decisions that may affect them and can provide responses to those decisions. They also have access to support and counseling. The act provides for special protection for vulnerable victims and establishes the Witness Protection Act for those cooperating with the law.

Reparation and compensation:

Victims have a right to receive reparation and compensation for the harm suffered.

Legal representation and participation

Victims can be represented by counsel in criminal proceedings and this representation can include active participation in certain aspects of the trial.

Victim Protection Act 2014

This Act gives effect to Article 50(9) of the constitution and provides the framework for victims' rights and services.²⁸

2.7 THE VICTIM PROTECTION BOARD (The Board)

This Board is established by Section 31 of the Victim Protection Act, 2014. The Act was enacted on the 4th September, 2014, to give effect to Article 50(9) of the constitution.

²⁷ Victim protection Act, 2014

²⁸ <https://www.kenyalaw.org>

The Victim Protection Act 2014 provides for the protection of victims of crime and for reparation, compensation, special protection for vulnerable victims and the developments of a mechanism for the dissemination of information and provision of support services. The board is mandated to advise the Cabinet Secretary responsible for matters relating to justice on inter agency activities aimed at protecting victims of crimes. The board is also charged with the implementation of preventive, protective and rehabilitative programs of victims of crime.²⁹

2.7.1 FUNCTIONS OF THE BOARD

Under the Kenyan law, the Victim Protection Board (VPB) has several functions aimed at supporting victims of crime, including protecting them, providing functions and reparations, overseeing preventive, protective and rehabilitative programs, developing information and support services and advising the Attorney General on inter-agency activities for victim protection. The VPB ensures that victims' rights are upheld by providing special protection for vulnerable individuals and implementing mechanisms to reduce re-victimization.

Some of the key functions of the board are;

Protection and support; the VPB is responsible for protecting victims of crime and providing special protection and support services, especially for the vulnerable.

Reparation and compensation; the board is mandated to provide compensation for the economic loss, property damage, personal injury and medical expenses following court orders.

Program development; the board develops and implements preventive, protective and rehabilitative programs for crime victims, including educational and psychosocial support.

Advisory role, the board advises the Attorney General on inter-agency activities related to victim protection and the implementation of various programs. Through monitoring and

²⁹ Victim protection Act, 2014

compliance, the board monitors the implementation and effectiveness of the victim protection Act to ensure proper application and compliance.³⁰

2.7.2 LIMITATION OF THE BOARD

The limitations of the Victims Protection Board (VPB) under Kenyan Law stems from the institutional weaknesses, inadequate funding, and a restrictive legal framework. The VPB's inability to effectively protect victims of crime and provide compensation has led to significant shortcomings, prompting recent efforts to amend the law.³¹

2.7.3 INSTITUTION AND FINANCIAL LIMITATIONS

Inadequate and inconsistent funding; The VPB has been significantly underfunded, with budget allocations being a small fraction of its operational needs. This has crippled its ability to implement victim support programs and has forced it to rely heavily on inconsistent donor funding.

Structural and legal ambiguities; the Victim Protection Act of 2014, which created the VPB, contained ambiguities. For example, it failed to distinguish between the Victim Protection Board and the Board of trustees of the Victim Protection Trust Fund, causing confusion in roles and responsibilities.

Operational deficiencies; reports have indicated severe resource and staff shortages. For instance, early this year (2025) it is reported that one computer was shared by seven staff members, highlighting the dire lack of resources necessary to fulfil its mandate.³²

2.7.4 LIMITATIONS IN PROVIDING COMPENSATION

Court- ordered compensation is required. The VPB is not able to initiate compensation on its own. For a victim to receive compensation, a court must first issue compensation order against a guilty party. The Board can only disburse compensation claims after a court has made this determination.

³⁰ <https://www.kenyalaw.org>

³¹ <https://www.statelaw.com>

³² <https://www.kenyalaw.com>

Exclusion of historical injustices. The Act does not provide or rather cover victims of historical injustices, limiting the scope of its mandate and leaving certain categories of victims without a path to compensation through the VPB.

Dependency on offender payment. Compensation orders or restitution are not part of a criminal sentence and are dependent on the offender's ability and willingness to pay. If the offender is impoverished, victims may receive little or no compensation.³³

2.7.5 PROCEDURAL AND OPERATIONAL LIMITATIONS

Limited participation rights for victims. Although victims can present their views in court, their participation is constrained. The law is clear that prosecutorial duties remain solely with the Director of Public Prosecution (DPP) and the victim's views do not supersede the public interest in a case.

No power to prosecute. Victims cannot sue prosecutors for failing to respect their rights. While they can complain to an ombudsman, this process has not proven effective in practice.

Delays and lack of information. The criminal justice system is plagued by delays and many victims lack knowledge of legal procedures. While the law mandates providing information to victims, these systematic issues can hinder their ability to engage with the process effectively.³⁴

2.7.6 EFFORTS TO ADDRESS LIMITATIONS

Recognizing these challenges, the Kenyan government has initiated a review of the legislation. In early 2025, a public participation notice was for the Victim Protection (Amendment) Bill, 2024, and the Public Finance Management (Victim Protection Fund) Regulation, 2024. The goal is to:

Establish a Victim Protection Fund with a clear legal framework.

³³ <https://thelawbrigade.com>

³⁴ <https://www.kenyalaw.com>

Resolve statutory inconsistencies and ambiguities.

Strengthen the Board's autonomy and capacity to fulfill its mandate.³⁵

2.8 SIMILARITIES AND DIFFERENCES IN THE RIGHTS OF VICTIMS OF CRIME IN ZAMBIA AND KENYA

There are both similarities and differences in the rights of victims of crime in Zambia and Kenya, largely due to their common law heritage but also due to specific legislative developments in each country.

Here's a comparison of some key areas, in the Constitutional frameworks between Zambia and Kenya

KENYA: Kenya's constitution is considered highly progressive in addressing victim's concerns, ensuring the right of victims to participate in criminal proceedings, though it still emphasizes the prosecution's role.

ZAMBIA: Zambia's constitution also enshrines fundamental rights and freedoms, including protection against arbitrary arrest and detention and the right to information regarding detention. The constitution further requires informing detainees of the reasons for detention in a language they understand. It protects personal liberty, requiring release if not tried within a reasonable time. The constitution of Zambia also establishes the office of the Director of Public Prosecution (DPP) as the Chief Prosecutor for the Government and Head of the National Prosecution Authority.³⁶

2.8.1 STATUTORY RIGHTS AND VICTIM PARTICIPATION

Kenya: the Victim Protection Act (VPA) of 2014 provides for the protection of victims and abuse of power, including providing better information and support services, reparation, compensation and special protection for vulnerable victims. The VPA ensures that victims have the right to participate in criminal proceedings, including being present at trial, giving views in plea bargain and having disputes decided in a fair hearing. However, their

³⁵ <https://www.statelaw.com>

³⁶ <https://scholarship.law.cornell.edu>

participation cannot be active and parallel to that of the prosecutor and prosecutorial duties remain with the director of Public Prosecution (DPP).

Zambia: Zambia's legal framework includes the Anti-Gender Based Violence Act, which provides for the protection of victims of gender-based violence, establishes a Victim Support Unit within the police and addresses gender gender-based violence (GBV). Victims of GBV have the right to file complaints and receive assistance from the police officers. The Act also provides for the establishment of the Anti-Gender-Based Violence Fund.³⁷

2.8.2 COMPENSATION AND SUPPORT SERVICES

Kenya: Under the Victim Protection Board, compensation to victims requires a court order against the guilty party. The Victim Protection Board (VPB) can then disburse compensation claims. The process can be complex and face institutional limitations, as discussed in the previous context.

Zambia: Victims of crime in Zambia have the right to compensation, ideally from the culprit. In some cases, the State may provide compensation, particularly for violent crimes, when the damage is covered by the culprit or recovery is unlikely. This State compensation is generally paid after a conviction, but in exceptional cases, advance payments may be granted for urgent needs like healthcare or funeral expenses. However, the current system for compensation is described as inadequate, particularly for victims of crime not related to GBV. Zambia has been working with the United Nations and other organizations to improve its response to gender-based violence, including fast-track courts, one-stop centers, shelters and psychosocial support. These efforts aim to provide comprehensive support services to victims, including counseling and legal assistance.³⁸

2.8.3 ROLE OF THE DIRECTOR OF PUBLIC PROSECUTION (DPP)

Kenya: The DPP retains prosecutorial duties, and the victim's views do not supersede the public interest in a case, according to the Victim Protection Board (VPB).

³⁷ <https://scholarship.law.cornell.edu>

³⁸ <https://www.kenyalaw.com>

Zambia: The DPP in Zambia prosecutes cases on behalf of the Zambian people and must decide on prosecution by weighing the sufficiency of the evidence and the public interest. While considering the impact on victims and their families, the DPP's decision cannot be solely based on their interests.

2.9 CONCLUSION

International and regional standards for victims' rights emphasize dignity, respect, access to justice and protection. These standards, are outlined in the United Nations declarations and human rights conventions, they aim to ensure victims receive fair treatment, support and compensation for the harm suffered.

Both Zambia and Kenya recognize the rights of victims of crime within their legal frameworks. Kenya's legal framework, particularly the Victim Protection Act, is seen as progressive in guaranteeing victims' participation rights in criminal proceedings, though with certain limitations. Zambia has focused on establishing support systems like the Anti Gender Based Violence Act, while continuing to develop its approach. Both countries face challenges in fully implementing these rights due to institutional and financial constraints.³⁹

³⁹ <https://www.statelaw.com>

CHAPTER THREE

THE EXTENT TO WHICH ZAMBIAN LAWS PROTECT THE RIGHTS OF VICTIMS OF CRIME

3.0 INTRODUCTION

This chapter seeks to discuss the Zambian laws such as the Constitution, the Anti-Gender Based Violence Act, the Victim support Unit and the Children's Rights Legislative Reform, as the laws which aim to protect persons from abuse and ensure the care and protection of children. This chapter will further examine how adequate these laws are in protecting the victims of crime and give a critical analysis of the extent to which these laws protect the victims and examine the gaps between legal provisions and their effective implementation in practice considering potential challenges in areas such as access to justice, victim support services and enforcement.

3.1 THE LAWS PROTECTING CRIME VICTIMS IN ZAMBIA

Zambian laws demonstrate a commitment to protecting the rights of crime victims, evident in legislation like the Anti-Gender-Based Violence Act and the establishment of the Victim Support Unit within the police force. These measures aim to provide support, legal recourse and in some cases compensation to victims of crime. Despite these provisions, the challenges still persisting in the practical implementation and enforcement of these laws, which may lead to gaps in the full realization of victims' rights, particularly in areas like access to justice, timely case resolution and adequate victim support services especially in rural areas.

In Zambia, victims of crime's rights are protected by a combination of legislation, specialized police units like the Victim Support Unit (VSU) and dedicated policies, with the Anti-Gender-Based Violence Act. Some of the key measures include the Victim Support Unit's provision of counseling and support, the legal right to protection from the accused, access to one-stop centers for comprehensive aid and the constitutional guarantee of human rights.

Zambia has implemented various laws and institutions to protect the rights of crime victims, particularly in cases of domestic violence and sexual offences.⁴⁰

Key laws and policies:

The Zambian constitution protects victims of crime through the Bill of Rights, which guarantees fundamental rights and freedoms, including protection from torture, inhuman treatment and discrimination and the right to access justice. While the focus is primarily on the rights of the accused persons and the general population, victim's rights are protected indirectly through provisions that ensure the integrity of the judicial process and prohibit abusive treatment. The constitution also establishes the Human Rights Commission, which works to ensure these fundamental rights and freedoms are protected and upheld.

The key constitutional protections for victims are;

Freedom from torture and cruel treatment, Article 15 of the constitution explicitly prohibits torture and inhuman or degrading punishment or treatment. This protects victims from being subjected to such treatment by individuals or state actors involved in the justice process.

Access to justice and a fair hearing, Article 18 of the constitution guarantees the right to a fair hearing within a reasonable time by an independent and impartial court. This principle ensures that victims' concerns are heard in a fair process.

The constitution is the supreme law of Zambia, meaning all other laws and actions must comply with it. This ensures that any law or action that violates the rights of victims can be challenged. However, the framework does not contain extensive specific provisions for victims of crime in the same way it does for the rights of the accused. However, these broader protections indirectly serve to support victims by ensuring a just and rights-respecting the justice system.⁴¹

⁴⁰ <https://thelawsbrigade.com>

⁴¹ Act No 2 Of 2016

The Anti- Gender Based Violence Act (AGBVA) of 2011 provides protection and support to victims of Gender Based Violence, including rehabilitation services and shelter. This law empowers victims to seek protection orders, which can be obtained relatively easily without requiring legal representation.⁴²

The penal code chapter 87 of the laws of Zambia defines and punishes various crimes, including defilement, indecent assault and sodomy with amendments to strengthen protections for victims. The penal code protects victims in Zambia by criminalizing harm, providing specific penalties for crimes like trafficking and sexual harassment, and working in conjunction with the criminal Procedure Code to ensure victims' needs are considered during the justice process. However, there are concerns that the system does not always adequately prioritize victims' wellbeing with their role often limited to providing testimony rather than active participation.

The penal code of Zambia protects victims of crime through various provisions that define and punish offences, ensuring accountability and justice. Some of the key ways the penal code protects victims of crime include, prosecution and punishment, the code ensures that perpetrators are prosecuted and punished, providing justice and closure for victims and deterrence, which by prescribing penalties for crimes, the code serves as a deterrent to potential offenders, helping to prevent victimization.⁴³

Lastly, while not explicitly, stated in the penal code, Zambian courts may order compensation or restitution as part of sentencing, aligning with the principles of justice and reparations for victims.

Rights legislative reforms protect victims of crime by granting them enforceable legal entitlements to information, protection, participation in the proceedings and financial redress. The aim of these laws is to protect and prevent secondary victimization, ensure dignity and respect and most importantly provide access to necessary victim support services.

⁴² Anti gender based violence act of 2011

⁴³ Penal code Act chapter 87

Some of the ways in which legislative reforms protect victims of crime is through;

The right to protection and safety, here the legislation mandates that victims should receive necessary and quite reasonable protection from intimidation, harassment and harm by the accused. This basically will involve no contact orders, secure waiting areas in courtrooms or in most serious cases entry into a witness protection program. Courts are often required to consider victim safety when making decisions about bail or release.

Secondly, the right to information and notification, victims have the right to be informed about key stages of the criminal justice process, including case progress, the status, the location of the offender, upcoming court dates and definitely, the outcome of the case or any other appeals. This allows victims to stay aware and where necessary take steps to ensure their own safety.

Thirdly, the right to participate and be heard; reforms grant victims the right to present a victim impact statement or victim personal statement that describes how the crime has affected them, which the court must consider during sentencing. They may also have the right to attend court proceedings that confer with the prosecutor and have their views considered on decisions that affect their rights such as plea bargains or release conditions.

The right to a fair and dignified treatment is yet another fundamental principle that states that victims need to be treated with courtesy, compassion and respect for privacy by all justice and government agencies. This includes access to interpreters and the translation services to ensure they can understand and of course be understood.⁴⁴

It is basically noted that these legal changes transform the victim's role from a passive witness to an active participant with protected rights throughout the criminal justice process, ensuring their needs are a formal consideration.

The Zambia police's Victim Support Unit (VSU) provides professional counseling to victims and offenders, investigates crime, particularly Gender-Based Violence (GBV) and works to prosecute perpetrators. The unit also protects various vulnerable citizens from

⁴⁴ <https://www.ohchr.org>

harm and abuse, coordinates with community groups and conducts public awareness campaigns on crime prevention. The victim support unit collaborates with civil society organization, professional bodies and community leadership on crime prevention initiatives and community policing. The unit works to ensure the safety and well-being of victims, protecting them from further harm and it also refers victims to other essential services such as medical and legal support, to ensure their comprehensive care.

Lastly, the police officers in the victim support unit offer emotional and practical support to crime victims including professional counseling.⁴⁵

One- Stop Centers (OSCs) provides comprehensive services to victims, including counseling, medical support and police liaison services. One stop center in Zambia plays a vital role in protecting victims' rights, particularly for those affected by Gender-Based Violence (GBV). These centers provide comprehensive services under one roof, ensuring that the victims of crime receive the support they need without having to navigate multiple institutions. The centers protect the rights of victims of crime through, integrated services, one stop centers offer a range of services, including psychosocial counseling, medical support, legal aid, HIV testing and post-exposure prophylaxis. This integrated approach ensures that the victims of crime receive holistic care and support.

Safe and supportive environment, these centers provide a safe space for victims of crime to share their experiences and receive support from trained professionals. This helps to reduce the trauma and stress associated with GBV.

Access to justice, one stop centers often have legal personnel on site, which helps victims of crime access justice and navigate the legal system. This includes assistance with the filing of complaints, obtaining protection orders and pursuing legal action against perpetrators.

Child- friendly services, some one- stop centers have been transformed into child- friendly spaces, equipped with toys and staff trained to handle young clients in a sensitive and supportive manner. This helps to reduce the trauma experienced by child victims of GBV.

⁴⁵ <https://www.gender.gov.zm>

Coordination and collaboration, one stop centers bring together various stakeholders, including health care providers, law enforcement agencies and social workers. This coordination ensures that victims of crime receive comprehensive support and care.

Empowerment and Skills Building, one stop centers often provide victims of crime with skills training and empowerment programs helping them to become self-sufficient and regain control over their lives.

By providing these services, one stop centers in Zambia help to protect the rights of GBV victims, promote their well-being and support their recovery.⁴⁶

3.2 GAPS AND CHALLENGES

Notwithstanding the existence of specific legislation for certain crimes, the overall protection for victims faces challenges especially in areas of implementation and enforcement, access to support services, compensation and addressing the specific needs of diverse victim protection:

Inadequate General Provisions: There is no single, comprehensive legal framework for victims of all crimes, for example, property crimes, general assault, this means that many victims lack the explicit rights and support provided under the AGBV Act.

Barriers to reporting and participation: it is noted that a lot of crimes go unreported due to the victims fear of retaliation, shame, a general lack of trust and confidence in the criminal justice system and social stigma.

Access to the support services: Support services are frequently fragmented, insufficiently funded and unevenly distributed with many operating on short term grants. The victims may also be unaware of the available services and communication channels provided for between the police, support organizations and judicial authorities which are often ineffective, creating significant barriers to access.⁴⁷

⁴⁶ <https://www.unicef.org>

⁴⁷ <https://www.oxfam.org>

Data Gaps: a failure to collect a comprehensive and coordinated data on victims of crime means the justice system cannot fully identify the victim's diverse needs which may lead to inadequate policy and legislative implementation.

Issues with compensation and restitution: securing adequate financial compensation is a major challenge. Procedural hurdles, strict deadlines for reporting crime and the rules that deny compensations based on a victim's contributory misconduct can lead to claim deals. Additionally, offenders often lack the financial means to provide full restitution, leaving victims with uncompensated losses.

Specific victim needs: laws often fail to adequately address the unique challenges faced by vulnerable victims such as children, people with disabilities or those in abusive domestic situations. These groups may face additional barriers like language differences, power imbalances with perpetrators or a lack of accessible information and support structures.

Implementation Gaps, the effectiveness of laws can vary due to factors like a lack of resources for example, insufficient shelters outside urban areas, varying police officer experience and potential corruption.

Lack of automatic compensation, the absence of a dedicated government fund for general crime victim compensation means recovery of damages and depends entirely on the victim initiating a separate civil case.

3.3 CONCLUSION

In conclusion, Zambian law offers robust specific protection and support mechanisms for victims of gender-based violence and child abuse, but the legal framework for victims of other crimes is less developed, relying more on general constitutional rights and the criminal justice process for prosecution rather than direct victim support or compensation.

Additionally, these challenges require a more coordinated, victim-centric approach, improved training and resources for professionals and ongoing advocacy to ensure all victims can access their rights and receive the support they need.

CHAPTER FOUR

THE LEGAL IMPLICATIONS OF NOT HAVING A COMPREHENSIVE LEGAL FRAMEWORK PROTECTING THE RIGHTS OF VICTIMS OF CRIME

4.0 INTRODUCTION

The harm inflicted by a crime begins with the criminal Act itself, it often continues long after, particularly when legal systems fail to effectively protect the rights of victims. The absence of an inclusive legal framework for victims' rights may leave those who have suffered at the mercy of a system that is often complex, intimidating and primarily focused on the offender.

This chapter will analyze the resulting legal implications from the denial of access to justice and effective remedies to the erosion of victims' privacy and security throughout the legal proceedings.

4.1 CONSEQUENCES FOR THE CRIMINAL JUSTICE SYSTEM

Procedural inequality, this basically entails that, without clear laws, victims maybe treated merely as witnesses for the State rather than individuals with their own rights and interests. This leaves them vulnerable to being excluded from crucial stages of the legal process, including sentencing and the parole hearings.

Diminished participations, the lack of formal recognition can exclude victims from participating meaningfully in the legal process. In contrast, the comprehensive frameworks may grant rights such as making victim's personal statements and conferring with the prosecutor.

The arbitrary application of justice, ambiguous or vague criminal codes may lead to arbitrary enforcement by authorities, disproportionately affecting vulnerable or marginalized groups.

Undermining restorative justice, the absence of a legal framework for victims' rights can sideline restorative justice measures, such as mediation and victim-offender reconciliation.

Unenforceable protections, even where some victim protections exist, without a comprehensive framework, remedies maybe discretionary and unenforceable. Constitutional guarantees, on the other hand, can provide stronger, more permanent and enforceable rights.⁴⁸

4.2 CONSEQUENCES FOR VICTIMS

The Secondary victimization of the criminal justice system itself may cause additional trauma by not treating victims with respect, compassion and dignity. Hence without a robust framework, victims may be forced to relive their trauma without proper support.

The Lack of information and support, will often leave victims uninformed about their rights and the status of their case. This may lead to frustration, distress and deny them access to crucial support services like counseling, compensation programs and victim advocacy.

The denied remedies and compensation without a clear legal basis for victims may be unable to secure timely and effective remedies such as restitution from offenders or state-funded compensation for financial losses. Some of the victims, particularly those from marginalized communities, may face greater hurdles in seeking compensation.

Loss of privacy and security, a lack of legal protection can expose victims to harassment, intimidation and retaliation from offenders. Without rules protecting privacy, their personal information and that of their families may be improperly disclosed.

Erosion of trust, when victims feel ignored or harmed by the justice system, their trust in legal institutions is undermined. This can lead to a reduced willingness to report crimes and participate in future proceedings.⁴⁹

⁴⁸ <https://scholarship.law.marquette.edu>

⁴⁹ <https://criminalinjurieshelpline.co.uk>

4.3 BROADER SOCIETAL AND INTERNATIONAL IMPLICATIONS

Failure to meet human rights obligations. The international human rights instruments, such as the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, establish clear standards for the treatment of victims. A legal void in domestic law can cause a state to fall short of its international obligations to provide access to justice, reparations and effective remedies. A country without a strong victim central legal framework may fail to meet these international standards.

The Perpetuation of social inequalities, vulnerable and marginalized groups may be disproportionately impacted when victim protections are absent or unevenly applied. They may face greater barriers in accessing support and are more vulnerable to insensitive treatment, which may deepen existing social disparities.

The reinforcement of impunity, when victims are unable to effectively report crimes and participate in the justice process, it can unintentionally create a climate of impunity for offenders. Particularly in cases of domestic or sexual violence, a lack of institutional support can discourage reporting, allowing perpetrators to continue with their abusive behavior.

The reinforcement of social inequalities, vulnerable groups such as children, victims of gender-based violence and those with disabilities are disproportionately affected by the absence of legal protections. These individuals require specific measures to ensure their safety and participation, which a general framework may not provide.

The reduced effectiveness of the justice system, a system that ignores victims loses a valuable perspective on the impact of crime and may fail to achieve true justice. By excluding victims, the system becomes less effective at addressing harm and promoting healing.

While a lack of a comprehensive legal framework for victim protection is a systemic issue, several-profile cases illustrate its devastating implications. Many of these examples involve historical injustices that predate modern victim rights movements, but some more

recent cases still highlight ongoing failures, particularly in how police and the justice system handle marginalized victims.⁵⁰

4.4 THE JOHN WORBOYS CASE(UK)

This case, involving a London taxi driver whom was a serial sexual predator, provides a powerful example of what can happen when a justice system fails to protect victims.

John Worboys drugged and sexually assaulted dozens of women between 2002 and 2008. The first report was made in 2003 and another in 2007. However, the police failed to properly investigate these initial claims.

Many women were denied justice and exposed to further harm because the police failed to act on early reports. A key finding in the subsequent legal challenges was that the police's failure to investigate effectively constituted a human rights violation, demonstrating how systemic failures can deny victims their fundamental right to protection.

In 2018, the UK supreme court ruled that the Metropolitan police's ineffective investigation violated the victims' human rights under Article 3 of the European Convention on Human Rights, which prohibits inhuman or degrading treatment.⁵¹

4.5 THE CENTRAL PARK FIVE CASE (USA)

Secondly, The Central Park Five (USA):

This wrongful conviction case from 1989 highlights how a criminal justice system can fail victims by pursuing a flawed narrative under public pressure.

Five young men of color were wrongfully convicted of a sexual assault on a white woman in the Central Park. The case received intense media scrutiny and city leaders pressured the police to make the arrest quickly.

In the rush to secure a conviction, the law enforcement focused on false confessions coerced from the five teenagers. As a result, the actual attacker, who was later identified by DNA evidence, was free to continue committing crimes. The victim of the assault and

⁵⁰ <https://www.researchgate.net>

⁵¹ John v worboys [2009] EWCA Crim 589

her family were also denied justice, as the perpetrators of the crime were not held accountable for their actions for over a decade.

This case illustrates how a justice system that prioritizes public relations over due process can harm both the wrongly accused and the victim. It also shows how the absence of a comprehensive legal protections including safeguards against coerced confessions and mechanisms for victims' access to the legal system can exacerbate systemic failures.⁵²

4.6 JESSICA GONZALES V USA

This case involved a domestic survivor's fight against the US justice, highlighting the failure of the law enforcement to protect victims even with a restraining order.

Jessica Gonzales had a restraining order against her estranged husband, who abducted their three daughters. Despite her repeated calls for help, the police did not enforce the order and the children were killed.

The Inter-American Commission on Human Rights found that the US had violated Gonzales' human rights by failing to protect her and her children from domestic violence. The case underscored that even when legal tools like restraining orders exist, they are not a substitute for a comprehensive framework that mandates proactive enforcement and treats victims with respect.⁵³

4.7 R v ROBSON AND NORRIS

Lastly, the murder of Stephen Lawrence (UK):

While primarily known as a case of racial injustice, the murder of Stephen Lawrence also underscores the systemic failure to protect victims of hate crimes and their families.

In 1993, the 18-year-old Stephen Lawrence was murdered in a racially motivated attack. The initial police investigation was marred by institutional racism and incompetence, leading to repeated failures to prosecute the perpetrators.

⁵² Sarah Burns, *The Central Park five: The Untold Story Behind One of New York City's Most Infamous Crimes* (Vintage Books 2011)23.

⁵³ Jessica lenaham Gonzales v USA case No. 12.626, inter-am. C.H.R Report No. 80/11 (2011)

The Lawrence family, including Stephen's parents, were victimized twice, first by the racially motivated murder and again by the police's indifference and failures. They were denied a fair investigation and justice for years.

The resulting inquiry into the case found that the Metropolitan police was institutionally racist. The case led to significant changes in UK policing and the legal system including a partial revocation of the double jeopardy rule, but only after years of activism and public outcry. The case demonstrated that a lack of legal accountability for systemic failures can leave victims, especially those from marginalized communities without any recourse.⁵⁴

4.8 CONCLUSION

Not having a comprehensive legal framework for victims of crime leads to systemic failures that compromise justice, undermine human rights and erode public trust in the legal system. Without a formal structure, the legal process can victimize individuals a second time, as their needs for safety, dignity and reparations are not prioritized.

Ultimately, a robust legal framework is not just a matter of fairness but a necessity for building a truly just and functional criminal justice system that protects the rights of all citizens.

⁵⁴ R v Dobson and Norris [2012] EWCA Crim 279

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

This chapter will be summarizing the contents that have been provided in the preceding chapters of this dissertation. At the same time, it will provide recommendations that are designed to aid in the resolution of the problem that has been identified in this dissertation.

5.1 GENERAL CONCLUSION

The human rights approach has fundamentally transformed the legal protection of victims of crime by reframing them as rights holders and not merely as objects of the criminal justice process. It is imperative to note that this approach has resulted in significant advancements in international standards and national legislation, substantial gaps remain between the promises of human rights principles and their effective implementation. The ultimate success hinges on overcoming practical challenges and ensuring that the rights to access justice, effective remedies and adequate protection are not just theoretical but consistently realized for all victims.

Therefore, this research was aimed at trying to understand the rights of the victims of crime and to best analyze if the rights of the victims of crime are protected and promoted.

The research has therefore established the rights of the victims of crimes, its shortfalls as well as solutions in form of recommendations. This chapter will therefore just be a conclusion to all the other four chapters that makes up the entire research. This will be done through highlighting the discussions from the problem all the way up to the recommendations.

5.1.1 CHAPTER ONE

This chapter introduced the research and thereafter went straight to the background of the study, analyzed the rights of victims, their inception, history and how they have developed until this far. The chapter then went on to discuss about the statement of the

problem of the research and brought out institutions and bodies that look into the rights of victims of crime. Key institutions were outlined and their main purposes were pointed out. The chapter also brought out the objectives and the research questions of the study; it also provided for the aim and methodology.

5.1.2 CHAPTER TWO

This chapter embarked on the first objective being the examination of international and regional standards and principles of the rights of victims of crime. The chapter was at the same time addressing the first research question. It dealt with the introduction and then went straight to the background, history and understanding of how these instruments came into existence.

The chapter later on dived into discussing the international and regional instruments that promote and protect the rights of the victims of crime. It further went on to discuss the effects of the international instruments in Zambia's legal framework.

Having analyzed and examined the international and regional standards of the rights of victims of crime, the chapter had the following as findings;

It noted that Zambia is a party to numerous international and regional human rights instruments that protect victims. However, a concern was observed specifically where there is only one single Act that provides and speaks for the victims of crime and it focuses more on gender-based violence acts and sexual related violations. Therefore, this research seeks to recommend that the Anti- Gender- Based Violence Act be reviewed and amended to include clear provisions on the established concerns.

5.1.3 CHAPTER THREE

This chapter's focus was on the extent to which the Zambian laws protect the victims of crime. It has been noted that there are measures put in place that aim to provide support, legal recourse and in some cases compensation to the victims of crime. Despite these provisions challenges still persist in the practical implementation and enforcement of these laws. This research therefore, seeks to recommend for a strong board in educating the victims of crime of their rights and the implementation of other laws to cover up the gaps.

5.1.4 CHAPTER FOUR

This chapter embarked on bringing up the consequences of not having a comprehensive legal framework that protects the victims of crime. It was noted that the victims tend to lose faith in the justice process. Secondary victimization, the criminal justice system itself can cause additional trauma by not treating victims with respect, compassion and dignity. Therefore, this research seeks to recommend that a legal system must be comprehensive to protect the victims of crime.

5.2 RECOMMENDATIONS

Having established and explained about the problem in the law that gave rise to this research, the following are the findings discovered;

It is noted that in Zambia the victims are ignored as the law focuses more on the perpetrators and the victims are left to deal with their problems, they are not involved in court processes and they are not informed about their cases or their perpetrator's welfare, therefore this dissertation seeks to recommend that the victims of crime must be informed about their cases and the wellbeing of the perpetrators, for example they should be told why their perpetrators have been pardoned, so that they are not shocked when they see them walking freely out there. This will make them feel involved in the justice system.

Lessons were drawn from Kenya which has Victim protection Board that supports the victims of crime, including protecting them, providing functions and reparations and rehabilitative programs, developing information and support services and advising the Attorney General on inter-agency activities for victim protection. Therefore, this dissertation seeks to recommend that Zambia should have a Victim Protection Board that is mandated to educate the victims of their rights and provide services like counseling to the victims.

Zambia has the laws that protect the victims of crime like the Anti Gender based Violence Act, however this law particularly focuses on domestic violence and sexual offences. This Act is inadequate as it mainly focuses on the above-mentioned issues. Therefore, this dissertation seeks to recommend that there should be an enactment of an Act like that of Kenya that specifically deals with the protection and education of the victims of crimes.

Key recommendations

Prioritize a human rights and victim-centered Approach. Embed human rights principles, ensure all efforts to protect and assist victims are centered on their inherent human rights dignity. There is need of adopting a victim-centered approach, prioritize the needs, rights and voices of victims in all legal strategies and decisions, ensuring they are treated with compassion and respect by all authorities.

Enhance Access to Justice and Effective Remedies. Remove barriers, investigative and reduce any practical or procedural barriers that prevent victims from reporting crimes or accessing support services. Guarantee legal aid, by ensuring victims have access to the legal aid, especially when they are parties to criminal proceedings or when the interests of justice require it and provide effective remedies by ensuring victims have access to effective judicial remedies if they need to challenge the scope or lack of protection or support measures.

Strengthen support and protection services. Ensure holistic, specialized support, this can be achieved by developing comprehensive, integrated and multi-disciplinary services, these could be psychological, medical, social and legal aid that cater to the diverse needs of victims including specific needs of vulnerable groups like children, victims of gender-based violence or human trafficking. Prevent secondary victimization, implement measures to protect victims from repeat and secondary victimization during their interactions with the criminal justice system for example, avoiding unwanted encounters with the offender, providing child-friendly questioning environments. Formalize individual needs assessments, systematically assess each victim's individual needs for protection and support and ensure that the results of this assessment are considered at all stages of the proceedings.

Ensure Rights to Information, Participation and Reparation. Provide timely and clear information, ensure that the victims receive information about their rights, the available support services, the progress of investigations and the outcome of the proceedings in a language they understand.

Guarantee right to compensation and restitution, ensure within a reasonable time that victims are entitled to obtain a decision on compensation from the offender during criminal proceedings or through alternative legal processes and facilitate meaningful participation, this can be achieved by allowing victims to convey their views and concerns throughout the proceedings and ensure their perspectives are heard.

And lastly by promoting training and coordination. Ensure continuous and mandatory professional training on victims' rights, trauma-informed engagement, and empathy for all personnel who come into contact with victims, police, judges, lawyers and social workers and enhance cooperation improve coordination and cooperation among all relevant actors, including state authorities and civil society organization and involve in policy decisions.

BIBIOLOGRAPHY

STATUTUES

Constitution (Amendment) Act No. 2 of 2016

Human rights commission Act No. 8 of Kenya s4

International Covenant on Civil and Political Rights 1996,999 UNTO 171

Rome Statute of International Criminal Court (adopted 17 July,1998 entered into force 1 July 2002) Article 75

Anti-Gender-Based Violence Act of 2011

Penal Code Cap 87 of the laws of Zambia

African Charter on Human and People's Rights (adopted 27th June 1981, entered into force 1986) Article 5

Rome Statute of the International Criminal Court (adopted 17 July, 1998 entered into force 1 July 2002) Article 68

CASES

Velasquez Rodriguez v Honduras (1988) ICJ Reports 69

(Kurt v Turkey) PCIJ Series a No. 10 (1998)

M.C v Bulgaria (2005) 40 EHRR 20

Nelson v Colorado 581 U.S. 278 (2017)

The prosecutor v Anto Furunzija (No 2) (ITLOS Reports 1998)

Zimbabwe Human Rights NGO Forum v Zimbabwe (2006) 2 ZLR 233 (LC) 235

Mwenda and another v Attorney general (2010) AHRLR 224 (ugcc2010)

R v Dobson and Norris [2012] EWCA Crim 279

Jessica lenaham Gonzales v USA case No. 12.626, inter-am. C.H.R Report No. 80/11 (2011)

John v worboys [2009] EWCA Crim 589

BOOKS

Bryan A Garner (ed), Black's Law Dictionary (10th ed, Thomson Reuters 2014)

Paula Vennels "Victims of Crime; A review of the literature" (3rd edn, 2013).106

JOURNAL ARTICLES

Victims of crime; a human rights approach (New York: Erika Luna's press 2011)

Victimology perspective on Justice and reconciliation (New York: Pemberton's press 2013)

Victims and restorative justice (New York: Arthur Hartman 2010)

Sarah Burns, The Central Park five: The Untold Story Behind One of New York City's Most Infamous Crimes (Vintage Books 2011)23.

INTERNET SOURCES

<https://www.refworld.org/reference/themreport/coespace/2015/en/106246> [accessed on 26 August 2025]

<https://www.equalityhumanrights.com> [accessed 15 August 2025]

[https:// www.libertyhumanrights.org.uk](https://www.libertyhumanrights.org.uk) [accessed 01 September 2025]

<https://www.justicelaw.com> [accessed 02 September 2025]

<https://bristoluniversitypressdigital.com> [31 September 2025]

<https://www.gender.gov.zm> [accessed on 6 September, 2025]

<https://www.unicef.org> [accessed on 6 September, 2025]

<https://www.scholarship.law.cornell.edu> [accessed on 6 September, 2025]

<https://www.researchgate.net> [accessed 15 August 2025]

<http://www.officeofjustice.ojp.gov> [accessed 6 September 2025]

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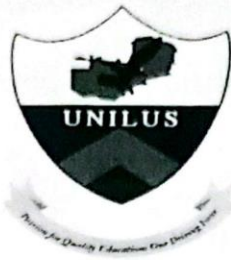
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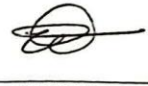
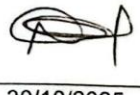
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Stage	Comment	Supervisor's signature and date	Student's signature and date
Chapter one	Work on my Comments of resubmit	30/07/2025 	30/07/2025 
Chapter two	II	06/09/2025 	06/09/2025 
Chapter three	Proceed	15/10/2025 	15/10/2025 
Chapter four	Proceed	15/10/2025 	15/10/2025 
Chapter 5 – Conclusions & Recommendations	proceed	30/10/2025 	30/10/2025 
Table of Contents,	proceed	30/10/2025	30/10/2025

Bibliography and Appendices			
First Draft	Write in my comments of resubmit	30/10/2025 	30/10/2025 
Second Draft	//	05/11/2025 	05/11/2025 
Final Draft	Submit document for marking	10/11/2025 	10/11/2025 