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VICTIMS OF CRIME

Survey of redress, assistance, restitution and compensation
for victims of crime

Report of the Secretary-General

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INTRODUCTION

1. In recent years there has been a considerable upsurge of interest in the victims of crime. Although attention has long been focused primarily on the offender and on the process of social control, the contributions of victimologists and victims' advocates and the development of empirical tools such as victimization surveys have helped to draw attention to the needs of victims and to the possibilities for more effective and informed action on their behalf. Reflecting this concern, the topic "Victims of crime" has been placed on the agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held in Milan, Italy, from 26 August to 6 September 1985.

Background

2. In pursuance of resolution 7 of the Sixth United Nations Congress, entitled "Prevention of the abuse of power", 1/ an item on illegal abuses of economic and public power was included in the United Nations work programme for the biennium 1982-1983 under the subprogramme on "Crime and development". In accordance with the recommendations of the Sixth Congress, three reports were prepared under this programme element: "Legislative provisions against abuses of power and measures used for their prevention and control" (E/AC.57/1984/12), "Patterns, trends, dynamics and impact of criminal acts involving abuses of power and the typology of offenders and victims" (E/AC.57/1984/13), and "Guidelines for measures on behalf of victims of crime and abuses of power" (E/AC.57/1984/14). These reports will be available as background documents for the Seventh Congress. As part of the project on criminal victimization, also, in the programme of work for the biennium 1984-1985, a survey of measures of recourse or redress, assistance, restitution and compensation for victims was called for, to be submitted to the Congress.

Objectives

3. The purpose of this document is to present the results of this survey so as to provide an overview of the situation of crime victims, their needs and recent developments in meeting them, as well as areas identified as requiring future action. This information is intended to complement the policy-oriented discussion of the subject-matter contained in the working paper on item 5 of the Congress agenda, entitled "Victims of crime" (A/CONF.121/6), which, in pursuance of the recommendations of the Committee on Crime Prevention and Control, is concerned with both the victims of traditional and newer crimes and those of illegal abuses of power. It is hoped that this cross-national analysis will assist countries in the evaluation of their own efforts in this sphere, as well as providing an empirical basis for future policy-making and planning in this field at the national, regional and international levels. Some priority areas deserving policy attention have been highlighted in this connection.

Definitions

4. For the purposes of the survey, victims were defined as "persons who have suffered loss, damage or injury, to their persons, property or human rights, as a result of conduct which is: (a) a violation of national penal laws; (b) a crime under international law; or (c) a violation of internationally recognized human rights principles; or which (d) otherwise amounts to an abuse of power by persons occupying positions of political or economic authority". It was noted that a victim may be an individual or a collectivity, including a group, class, community of individuals, economic business

entity, political group or organization. The status of four classes of victims was specifically dealt with in the survey:

(a) Victims of conventional crimes, such as murder, robbery, assault or arson;

(b) Victims of new and non-conventional forms of crime, such as illegal drug trafficking, organized crime, computer crime, terrorism, hijacking, bribery and corruption;

(c) Victims of illegal abuses of economic power, such as offences against labour regulations, consumer fraud, environmental offences, market and trading abuses by transnational corporations, exchange control violations, and tax evasion, bribery and corruption;

(d) Victims of illegal abuses of public power, such as human rights violations and abuse of authority by police or other State agencies of control, including wrongful arrest, and imprisonment.

Data sources

5. This report is based on the replies to a United Nations questionnaire entitled "Redress, assistance and restitution/compensation for victims of crime and of abuses of power", which was addressed early in 1985 to all Member and non-member States of the United Nations, to national correspondents in the various countries, and to the intergovernmental and non-governmental organizations concerned.

6. The questionnaire sought information on existing practices, as well as on proposals for reform. Both quantitative and qualitative information was obtained, and special care was exercised to reflect accurately the social, economic, legal and cultural realities of the various countries involved.

Replies

7. Replies were received from a total of 70 countries,* including two non-member States of the United Nations. These countries are listed below.** They represent a wide cross-section of countries in all geographical regions, and the findings can thus be said to have a reasonable degree of validity and representativeness.

Argentina	Fiji	Panama
Australia	France	Poland
Austria	Germany, Federal	Portugal
Bangladesh	Republic of	Qatar
Barbados	Ghana	Republic of Korea
Belgium	Greece	Rwanda
Belize	Honduras	Seychelles
Bolivia	Hungary	

*For three countries, replies were received too late to be incorporated into the quantitative analysis, although qualitative information has been included.

**More than one reply was received for a number of countries. Where this occurred, multiple replies were, for analytical purposes, combined and reported as single-country entries.

Botswana	Israel	Spain
Brazil	Italy	Sudan
Canada	Jamaica	Suriname
Central African Republic	Japan	Sweden
Chad	Kenya	Switzerland
Chile	Kuwait	Thailand
China	Malta	Togo
Colombia	Mauritius	Turkey
Costa Rica	Mexico	Uganda
Cyprus	Morocco	United Kingdom of Great
Czechoslovakia	Netherlands	Britain and Northern
Denmark	New Zealand	Ireland
Dominican Republic	Nigeria	United States
Ethiopia	Norway	of America
Finland	Pakistan	Venezuela
India	Singapore	Yugoslavia
Indonesia	Somalia	Zambia

Table 1. Regional breakdown of number and percentage of countries replying to the United Nations survey on redress, assistance, restitution and compensation for victims of crime and of abuses of power

Region	Number of countries	Percentage	Percentage of countries replying to the survey within each region
Africa South of the Sahara	15	22	33
Northern Africa and the Middle East	5	7	25
Asia and the Pacific	10	14	31
Eastern Europe	4	6	36
Latin America and the Caribbean	15	21	43
Western Europe, North America, Australia, New Zealand and Israel	<u>21</u>	<u>30</u>	75
Total	67	100	

Analysis

8. The style and format of the replies varied greatly from one country to another. Some replies were lengthy and detailed, containing comprehensive analyses and accompanied by extensive supporting documentation, while others

were limited to brief and more impressionistic statements.* The discussion that follows attempts to blend qualitative and quantitative information in order to provide a global overview of the situation and prospects for victims of crime and of abuses of power, paying due respect to the historical and cultural diversity of the responding countries. The information received is summarized, and representative passages are included to illustrate the range and depth of the answers.

Scope of the survey

9. The following subjects are dealt with in the summary of the findings of the United Nations survey: reporting of victimization (source of report and recipients of report); main avenues of recourse and redress; informing victims of their rights and options; special police services and procedures for victims; judicial processes; alternatives to formal judicial processes; restitution;** compensation;*** health and social services; redress and assistance for new and special forms of victimization; training for personnel who deal with victims; research; and major issues and parameters for action at the national, regional and international levels.

I. FINDINGS

A. Reporting of victimization

1. Source of report

10. As can be seen from table 2, by far the most common means by which instances of victimization resulting from conventional crimes come to the attention of police or other authorities is "self-reporting" by the victims. For that type of crime, 66 countries (99 per cent)**** said that the police were usually notified by the victims themselves. A large number of countries (87 per cent) reported that conventional crimes were also brought to the attention of the authorities by friends or family members of the victims.

11. Self-reporting was also commonly indicated as a means of bringing other types of offences to the attention of the authorities. Forty-two (66 per cent) of the countries that replied stated that that mechanism was employed with

*Bearing in mind the variations in style in the replies received, caution must be used in making generalizations based on the findings of the survey that would extend beyond the countries analysed, particularly in view of the differences in regional response rates.

**The term "restitution" was defined as payments or service by an offender (whether individual, corporation, State, or other entity), either to the direct victims or to indirect victims such as the family of the victim or the community.

***For the purposes of the survey, the term "compensation" was defined as payments to victims by an official body (e.g. the courts or other tribunals) from special public/State funds.

****Throughout this report, the figures refer to the percentage or proportion of 67 countries for which it was possible to undertake qualitative analysis.

Table 2. Means by which various types of victimization come to the attention of authorities, ranked by type of crime, showing number of countries indicating specific means and percentage of total number of countries for which quantitative analysis was undertaken

Means	Victimization from conventional crime		Victimization from new or non-conventional crime		Victimization from abuses of economic power		Victimization from abuses of public power	
	Number of countries	Percentage	Number of countries	Percentage	Number of countries	Percentage	Number of countries	Percentage
Self-report by victims	66	99	44	66	44	66	40	60
Report by friend or family of victims	58	87	38	57	23	34	29	43
Police investigation	53	81	50	79	32	48	20	30
Investigation by governmental agency	27	40	30	45	39	58	24	36
Special governmental inquiry	16	24	25	37	34	51	25	37
Media	39	58	37	55	42	63	38	57
Report by non-governmental agency report	12	18	32	48	30	45	29	43
Other (e.g. village or tribal chiefs, religious groups, bystanders, citizens' advice bureaux)	6	9	6	9	5	7	4	6

Source: Replies received from 67 countries to the survey on redress, assistance, restitution and compensation for victims of crime and of abuses of power.

Note: Percentages do not add up to 100, as more than one reply to the question was allowed.

respect to both new or non-conventional crimes and abuses of economic power. Similarly, 40 countries (60 per cent) reported that abuses of public power were reported to be generally brought to light in the same manner.

12. Media exposure was said to play a significant role in reporting all types of crime. This method of bringing crimes to the attention of the authorities was reported to be significant in 39 countries (56 per cent) for conventional crimes, 37 countries (55 per cent) for non-conventional crimes, 42 countries (63 per cent) for cases of economic abuse, and 38 countries (57 per cent) for instances of abuse of public power. It was observed by one respondent that an important way of learning about victimization was "through books, magazine articles and the testimony of victims". In Pakistan, it was reported, "the press displays prominently and frequently the news of victimization in any form, and acts as watch-dog for the government agencies". In one country, however, it was noted that that avenue of relaying information to the authorities was not feasible because the media were State-owned. In comparison with other means of alerting authorities to the occurrence of victimization, media exposure (for instance, through investigative journalism) plays a very important role in cases of economic abuse. Similarly, the reporting of victimization by non-governmental agencies also assumes considerable importance in new and non-conventional forms of crime.

13. In respect of conventional crime and new or non-conventional crime, a significant number of countries reported that victimization came to the attention of the authorities as a result of police investigation. Such was the case for conventional crimes in 54 countries (81 per cent) and for non-conventional crimes in 53 countries (79 per cent). That finding did not hold true to the same extent for illegal abuses of economic or public power, for which only 35 countries (52 per cent) and 22 countries (33 per cent), respectively, stated that police investigation was the means through which victimization was usually uncovered.

14. The reporting of victimization to the proper authorities was stated to be sometimes promoted by means of special provisions. Thus, in Israel, "according to the Youth Law (treatment and supervision), a physician, nurse, social worker, teacher/educator, or member of the police has to report to the welfare officer any child [who is a] victim of neglect, during the exercise of his professional duties". In Somalia, article 18 of the Criminal Procedure Code states that "a public officer, or a person invested with a public service, who becomes aware of the commission of an offence, in respect of which proceedings are initiated by the State, shall immediately report the offence".

2. Recipients of reports of victimization

15. As is to be expected, the authority to which victimization is most often reported is the police, particularly in instances of conventional crime (see table 3). Respondents in 52 countries (78 per cent) indicated that victimization was generally reported to the local police; in 37 countries (55 per cent) it was the national, State or federal police who were informed, and in another 18 countries (27 per cent), it was specialized police units, such as narcotics, fraud or juvenile bureaux. For example, in France, "reports usually go first to the police and rarely to the prosecutor's office or to the courts". Similarly, in India, for "conventional crimes which are sufficiently serious, reports normally go to the local police. In new and non-conventional forms of crime, reporting becomes a formality as higher levels of police and administration take early cognizance". New Zealand stated that "the main agency to which victimization is reported is the police, but people do make use of other agencies". In Sweden, "national and regional police comprise the most active official agency to which victimization is reported".

Table 3. Agencies and authorities to which victimization is usually reported, ranked by number and percentage of countries indicating them

Agency or authority	Number of countries	Percentage
Local police	52	78
Labour agencies (e.g. health and safety, employment standards)	43	64
Criminal courts	41	64
Civil courts	39	58
Professional lawyers, barristers, solicitors	37	55
National/State/federal police	37	55
Consumer complaint/protection bodies	34	51
Hospitals, health agencies	28	42
Legal/justice department	26	39
Environmental protection agencies	22	33
Taxation authorities	22	33
National governing body members of parliament, Congress	22	33
Local governing body, mayor, chief, governor	21	31
Customs authorities	20	30
Welfare or other social service agencies	20	30
Specialized police	18	27
Ombudsman	17	25
Military/armed services	16	24
Commissions (e.g. on judicial conduct, civil, human rights)	16	24
Community boards		
Clergy, religious institutions or leaders	16	24
Victim support groups	14	21
Corrections department	11	16
Other civil or administrative bodies	11	16
Other (e.g. professional associations, community law centres, tenant organizations)	7	10

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply to the question was allowed.

16. In some countries, it was stated, reports of victimization were made directly to the criminal or civil courts. In 41 countries (61 per cent), victimization was usually reported to the criminal courts, while in 39 countries (58 per cent), victims normally reported offences to the civil courts. For example, in Somalia, article 17 of the Code of Criminal Procedure stated that "information, complaints, and reports of offences shall be made to a judge - any member of the judiciary who exercises judicial functions in a court". It was observed by a respondent from one country that individuals who had suffered abuses while in prison were afraid to take their complaints to prison authorities and therefore reported their victimization directly to the judiciary. In China, victimization could be reported directly to the Communist

Party and, in many other countries, there were agencies at the local level to which people can report cases of victimization. In Nigeria, Rwanda and Zambia, for example, there were community boards, local governing bodies, ombudsmen and arbitrators or mediators to whom people may turn with their grievances. Also in the Central African Republic, Kenya, Nigeria, Uganda and Zambia, there were village elders and local chiefs who received reports on victimization.

17. For other non-conventional crime, or new forms of crime, reports were often made to agencies established for specific purposes. For example, Sweden indicated that "new forms of crime, for example, pollution and violation of employment standards, are often reported to and investigated by special authorities, which in turn will communicate the matter to the police". The reply from Poland simply noted that "the agencies to which victimization is usually reported depend on the kind of matter concerned".

18. In respect of economic abuses, it was most frequently indicated that victimization was reported to labour agencies (especially those dealing with health and safety, or employment standards) or to consumer complaint or protection bodies. In Togo, for instance, workers who were victims of abuses in the context of their employment could complain to labour courts and to labour inspectors. Thirty-two countries (51 per cent) noted that victimization was normally reported to consumer protection bodies.

19. Some countries reported the development of new agencies, authorities, or resources to which victims could report offences. In Costa Rica, for example, a special government department had recently been established to deal with the complaints of users of public services. In the Sudan, victims of economic abuse could notify a consumer complaint body that had been newly set up under the direct supervision of the Presidency of the Republic, while in Portugal, associations for consumer protection might receive reports of victimization. In Mexico, considerable information was reported to be available regarding offences against consumers, as a special prosecutor's office had been established to handle consumer complaints. In Ethiopia, the Judicial Tribunal of the Urban Dwellers' Association and the Judicial Tribunal of the Peasants' Association had been created since the revolution. It was noted that those agencies "are much closer to the people, have intimate knowledge of the day-to-day problems and disputes of the people and dispense speedier justice without court fees".

20. Concern was voiced in more than one reply that there were no agencies or authorities in existence separate from the Governments themselves, to which victims might voice their grievances. One respondent observed that "victimization is usually at the hands of the Government security forces. One therefore has no agency to report to". Similar concerns were raised with regard to situations involving a member of the judiciary as the offender.

21. It was sometimes noted that many, or in some cases most, of the crimes committed were not reported by victims to anyone (for example where abuses of public power had been perpetrated). As one respondent stated: "The victims go to the institutions so that an investigation can be started into the crime committed against them. Paradoxically, they are then forgotten, except by the human rights commissions."

B. Main avenues of recourse and redress

22. Respondents were also asked what constituted the main avenues of recourse and channels of redress in their countries. Generally, the comments suggest

that redress is most often sought through the civil or criminal courts, administrative or judicial tribunals, or through arbitration or mediation prior to bringing a complaint to court.

23. For example, it was indicated that in China "the main channels are courts, arbitration boards [and] industrial and commercial administration". Ethiopia reported that settlements or agreements between the offender and the victim were one of the main channels of redress. Similarly, in Cyprus, "if no redress can be obtained by way of amicable settlement, the victim has no alternative but to seek either a public or private prosecution of the offender or to bring a civil action against the offender for restitution". In Somalia, "the injured party may apply to the court in order to recover from the accused damages for any civil responsibilities arising from the offence", while in Thailand, the only channel of redress lay "in filing a lawsuit for damages against the offender in civil court." In the Sudan, the "main avenues of recourse include the police authorities, courts and religious groups or leaders", while the "main channels of redress are through the courts, Government high offices and religious groups". In Zambia, it was reported that ombudsmen were one of the main mechanisms for obtaining redress.

C. Informing victims of their rights and options

24. The extent to which victims pursue available options and exercise their rights hinges upon the adequacy of the information given to them, and the consistency with which that information is provided to all victims. The replies suggest that while victims of conventional crimes are not uncommonly informed of their rights and the channels of redress, victims of non-conventional crimes and of abuses of economic and public power are far less frequently provided with such information (table 4).

25. Forty-four countries (66 per cent) indicated that individual victims of conventional crimes were "generally informed" of their rights, although some observed that it was true more of major urban centres than of rural or isolated areas. An additional 13 countries (20 per cent) stated that victims were "occasionally informed"; only 10 countries (15 per cent) reported that they were "seldom informed". In comparison, some 30 countries said that both individual and collective victims of new and non-conventional crimes, victims of abuses of economic power, and victims of abuses of public power were "seldom informed". As the respondent from Bolivia observed, relevant legislation was not often common knowledge. Contrary to this general finding was the example provided by a respondent from Canada: "In cases of abuses of economic or public power, victims are better informed because we have State-funded agencies whose objectives are prevention and redress of these abuses."

26. In several countries, the provision of information regarding available recourse was stated to be a right guaranteed to victims by law. In both Poland and Czechoslovakia, organs active in criminal proceedings were obliged by law to inform crime victims of their rights. In Greece "victims of conventional crimes as well as certain non-conventional ones have the right to be informed by constituting themselves a 'partie civile'". That was also the case in various other countries. A respondent from France stated that "usually victims are unofficially informed, but recent reforms have been accepted (reception offices in the courts). As an experiment, the Court of Paris organized a new system: it consists in informing the victims through the police in charge of the case and under the supervision of the Public Prosecutor". One respondent reported that, while victims were reasonably well-informed of their rights, the police themselves were not well informed of the victims' rights and that, moreover, they tended to be selective about whom they informed.

Table 4. Extent to which victims are informed of their rights by type of victim, by number and percentage of countries providing information

Type of victims	Victims generally informed		Victims occasionally informed		Victims seldom informed	
	Number of countries	Percentage	Number of countries	Percentage	Number of countries	Percentage
Individual victims of conventional crimes	44	66	13	19	10	15
Individual or collective victims of new and non-conventional crimes	20	30	17	25	30	45
Individual or collective victims of abuses of economic power	23	35	13	20	30	45
Individual or collective victims of illegal abuses of public power	23	35	13	20	30	45

Source: See table 2.

27. The majority of the countries, however, were not found to require that the police or other law enforcement bodies should inform victims about such matters as court procedures or how and where to obtain assistance and advice, compensation from public funds, and restitution from offenders. Only 25 of the responding countries (37 per cent) reported that such provisions existed, although several indicated that the matter was receiving or was expected to receive attention from the appropriate authorities.

28. Some countries added that, while the actual requirements were not explicit, authorities such as the police did furnish information to victims as a matter of course. A respondent from Canada stated: "Help from the police is provided on a personal, human basis, but not as a part of police procedures. Lots of police men/women go out of their way to help victims, but they are not required to do so. All surveys show that the police [are] the most helpful agency for victims of conventional crime, but the police are far from meeting the needs." Chile also reported that, while provision of information to victims was not mandatory, "nevertheless, it is customary that officials and social workers inform the victims of these matters".

29. Conversely, some countries noted that, while there were requirements to inform victims of their rights, various factors prevented such requirements from being met. As was reported from one country, orders did exist that police should inform victims of the services available and the right to compensation, "but due to time constraints, stress on the job etc. (and of course due to their main orientation to offender discovery), they usually don't do this".

30. In many countries, it was reported, the media played an increasingly important role in the provision of information to victims regarding their rights. In Brazil, "the free press permits that every kind of victim is informed of his rights" and in Israel "a popular television programme ... play[s] an important role in informing victims of their rights".

31. In some countries, awareness of victims' rights was reported to be a concomitant of the growing public awareness of human rights and informal information-spreading among the victims themselves. For example, it was reported from India that "with increasing political consciousness and support from other conscious and active groups, victims are getting more aware of their rights and available avenues of recourse". Furthermore, a volunteer institution called "Legal Aid Service", which was founded by the Chief Justice of the High Court of Calcutta, conducts seminars, courses, clinics and other activities to educate people about their rights under the law. In another country, "the underground press addresses itself to the issues of victimization in a critical way".

D. Special police services and procedures for victims

32. As can be seen from table 5, numerous special police services and procedures provide for victims in the various countries. More than half of the countries reported that they provided transportation for victims, interpreters, specially trained police to handle particular types of victims or offences, advice on measures to prevent further victimization, and information on case disposition and court procedures. In Mexico, for example, a special police unit had been established to handle cases of sexual assault upon juveniles, and a programme of information for the elderly was also under way. An exception to that trend was the comparatively small number of countries (21) that provided special police crises intervention units.

Table 5. Special police services and procedures for victims, by number and percentage of countries indicating them

Service or procedures	Number of countries	Percentage
Transportation to emergency shelters for battered spouses, to courts, to medical facilities	43	64
Arrangements for interpreters for migrants etc.	40	60
Specially trained police to handle cases of rape, sexual assault, child abuse and neglect, drug problems, terrorism etc.	38	57
Advice on measures to prevent further victimization (e.g. to the elderly)	37	55
Information on case disposition, court procedures	37	55
Special crisis intervention units	21	31
Other (e.g. training for citizens in preventative measures, free legal consultation)	7	10

Source: See table 2.

Note: Total and percentages do not add up, as more than one reply was allowed.

33. The comments indicate, however, that not all special services or procedures are provided consistently by all police in a given country. Rather, it was observed that practices varied from region to region within countries, special provisions for victims being more common in urban areas. Or, as one respondent noted, "none [of the special procedures or services outlined] are customary, but some are occasionally used". Another commented that: "Several police departments have specialized units, but they are specialized in the investigation [of offences] not necessarily in the dealing with victims."

34. Respondents from Austria, Barbados and Chile reported that favourable trends had emerged in their countries concerning the role of law enforcement agencies. Such trends included educational activities for the public, youth liaison programmes and person-to-person advice on crime prevention. However, it was pointed out in the replies from the Federal Republic of Germany and the Sudan that the traditional offender apprehension orientation, the need to attend to emergency cases, and bureaucratic frustrations deriving from limited budgets and a lack of co-ordination led law enforcement agencies to concentrate on the perpetrator rather than the victim.

B. Judicial proceedings

1. Victim involvement

35. The growing awareness of the victim's role and interest in judicial proceedings and dispositions has been accompanied by an increased effort to involve the victim in the judicial process.

36. This matter seems to be less of an issue in countries where justice is commonly provided through consensual customary justice or community-based practices than it is in countries where formal systems predominate. The involvement of victims in the former types of procedure is seen as a way of providing reparation for the harm done to the victim, as well as a means of arriving at an outcome that is satisfactory to both parties involved.

37. In most developed countries, however, justice is pursued through public prosecutions. In many such cases, the victim's only role is to report the crime and to act as witness for the public prosecutor. Even in countries where it was reported that the victim was a party to criminal proceedings (34 countries), many respondents indicated that the victim's role was nonetheless confined largely to that of witness. As witnesses, victims might have few safeguards to protect their rights or privacy, especially in the courtroom. If the public prosecutor decided, for whatever reason, not to pursue a prosecution, the victim may feel that, even if civil action is theoretically possible, he or she is without recourse.

2. Victim assistance in court proceedings

38. In response to this unsatisfactory state of affairs, some countries reported that policies and procedures had been set in motion, providing for more humane treatment of victims (table 6). Such policies and procedures may include greater recognition of victims' rights, the importance of their role in the proceedings and their vested interest in the case and its outcome. Of the countries replying, 34 per cent indicated the existence of some type of victim-witness assistance scheme in their country. For example, the Victim and Witness Protection Act of 1982 in the United States recommends the provision to victims of information on court procedures, and their rights and responsibilities, consultation with the victim about disposition of the case, provision of separate waiting areas and other services. In Sweden, since 1984, a victim who is being examined by a prosecutor may be accompanied during the trial by an appropriate person who can provide personal support. The respondent indicated that the policy was aimed especially at female rape victims. In cases involving non-conventional crimes, it was reported that in Rwanda the Public Ministry was given great flexibility in court proceedings; it could offer advice and assistance to a party who was incapable of assuming his or her own defence, or the Ministry could actually take part in the action as a principle party or as a co-party.

39. For the most part, however, the existence of court-related assistance to the victim, particularly in criminal proceedings, is still relatively rare in the reporting countries. A minority of countries noted the existence of policies that provided for separate waiting rooms for victims and offenders, pre-trial diversion to court-appointed mediators or arbitrators and, even less frequently, official court observers for monitoring the fairness of the proceedings. One important point is that where such schemes do exist, they are often available only in larger urban areas and/or on an experimental basis.

Table 6. Court programmes and facilities for victims, by number and percentage of countries indicating them

Court programme or facility	Number of countries	Percentage
Translators or interpreters for victims (e.g. migrants)	50	75
Free legal aid for victims	41	61
Hearing of victim's civil claim during or in conjunction with criminal proceedings	39	58
Victim-witness assistance schemes (e.g. information on court procedures, child care, emotional support)	23	34
Separate waiting rooms for victims and offenders	21	31
Pre-trial diversion to court-appointed mediator/arbitrator	21	31
Official court observers to monitor fairness of proceedings	7	10

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

3. Legal assistance to victims

40. While 61 per cent of the countries reported that they provided legal aid to victims, many countries that afforded free legal representation to the offender did not do so in the victim's case. For many countries, it was felt that such a measure would be unnecessary because the victim's only role was as a witness, and it was assumed that the prosecutor would act in the victim's best interest. Some countries had, however, provided legal counsel to victims, if not in criminal courts, then at least in the civil courts, where appropriate. In Argentina, Botswana, the Dominican Republic and certain other countries, free legal counsel was provided in some cities by law students under the supervision of university professors. In the Federal Republic of Germany, in cases where private prosecution was allowed, the victim was entitled to free legal representation. It was reported from India that "free legal aid to the poor ... is functioning well now in all states of India and this is available for victims". In Bangladesh, there was a legal aid society that rendered free legal assistance to victims who did not have the means to meet the cost of legal representation in court proceedings, while in Bolivia legal representation by public defenders, as well as interpretation, was provided to prisoners

and to indigent persons. Further, the respondent from Bolivia noted the provision of assistance to female victims through a Judicial Office for Women in one city. Free legal counsel was also provided to indigent victims in Belize and Chile, and in Togo, even though legal aid had not been extended to victims in general, free legal assistance was now offered to minors.

4. Expression of victims' interests in judicial proceedings

41. In countries that allowed for the hearing of civil claims during or in conjunction with criminal proceedings (61 per cent of the countries replying), the scope of victims' rights and responsibilities in those criminal proceedings tended to be larger. In Italy, it was reported that "a person who has filed a civil action in criminal proceedings shall enjoy the same rights as the other parties in the proceedings. In particular, the said person shall be assisted by a defending counsel, may propose the taking of specific evidence to ascertain the facts and to determine damages, may submit briefs and/or written applications both to the investigating judge and to the prosecuting attorney; once the taking of evidence has been completed, [he or she] may read or state his pleadings, which, when compensation for damages is requested, must include also an indication of their amount". In Portugal it was possible for the victim to participate in criminal proceedings in the role of "assistant". The "assistant" could present evidence and, what was important could draw up a charge which was different from that produced by the Public Prosecutor or could even present charges independently if the latter did not press charges. Additionally, the "assistant" could intervene during the trial to interrogate witnesses independently or to appeal against a judgement pardoning the accused. In cases of economic offences, offences against public health or civil actions affecting the interests of groups of consumers, consumer associations could take on the role of "assistant".

42. Legal provisions allowing for the hearing of civil claims along with the criminal proceedings seem to be fairly common. In the Federal Republic of Germany, the Code of Criminal Procedure provided for the possibility of deciding on the victim's civil claims in conjunction with the criminal trial. In Israel, a civil claimant could request that the civil action be heard immediately following criminal proceedings by the same judge. Some respondents who reported this possibility, however, also indicated that it depended upon the public prosecutor's initiative in filing such claims and for that reason, among others, it was not applied as often as it could be.

43. The majority of the countries (57 per cent) also reported policies that allowed participation by the victim in other phases, for example at the arrest or pre-sentencing stage. For example, in Bangladesh, "the accused on bail may be taken into custody after cancellation of bail on genuine petition of the victim that the accused is trying to influence correct proceedings by intimidation of the victim or the witness, or by tampering with the evidence". In Qatar, it was noted that "victims are provided with the opportunity and the right, at all stages of (the) criminal justice process, to express their concerns and wishes". In the United Kingdom, "certain aspects of a victim's circumstances - e.g. fear of retaliation - should be taken into account". The reply of the Central African Republic noted that "in all stages of the procedure the victim has the right and the means to let his point of view be known". It was reported from Cyprus that, while there were no specific legal provisions for such participation, the courts took the victims' wishes into account, when appropriate.

44. In 55 per cent of the countries, mechanisms had also been developed to allow the victims' interests to be known at the sentencing stage. In the

Federal Republic of Germany, it was reported that there were 150 social workers in the prosecutor's office, who drew up pre-trial reports that sometimes contained a "victim impact" statement. In Argentina, "in accordance with article 41 of the Penal Code, before sentencing, the perpetrator has to have a face-to-face meeting with the victim". One respondent, however, voiced the opinion that inclusion of the victim's wishes in the sentencing stage was "generally regarded as incompatible with the basic principles of justice, evenhandedness and consistency in the treatment of the accused".

45. A somewhat smaller percentage (35 per cent) of the countries replying reported provisions for incorporating victims' wishes or interests in prison parole hearings. Greece reported that early release could be granted "on the condition of prior indemnification of the victim (partially or totally)". New Zealand stated that "with regard to prison parole hearings, representation can be received and considered from anyone. There is nothing special for the victim".

46. The decision to prosecute was generally made by someone other than the victim, for example from the prosecutor's office or the police. Many countries (48 per cent) allowed the victim to appeal if the offender was cleared at some stage of the proceedings or if the decision was taken not to prosecute. It was reported that, in Brazil, "the victim can always appeal, whether or not the case went to trial". In Bangladesh, "if the police submit a report clearing the offender, the victim, if not satisfied, may submit a petition to the court challenging the police report". Similarly, in India, if the police filed a non-prosecuting final report, the victim could file a protest to the magistrate. In Ethiopia, "one may petition the Minister of Justice for review of the decision of the public prosecutor". In Sweden, "an appeal against a local decision not to prosecute can be made to the Chief Public Prosecutor". In Honduras, the victim could ask the appropriate tribunal "to comply with the law".

47. Alternatively, in the majority of the countries replying (84 per cent), the victim could institute private or civil proceedings if a decision was taken not to prosecute or formally charge the offender. It was reported that, in Argentina, "the victim can always institute civil proceedings whatever the result of the criminal action". In Belgium, "direct summons by the victims is possible to some extent", while in Jamaica, "if a decision is made not to prosecute, the victims may take private prosecution in cases of relatively lesser offences". In Poland, "when the court has refused to admit a criminal complaint, or has left [a criminal complaint] unheard, the victim may litigate his claim in civil proceedings".

F. Alternatives to formal judicial processes

48. As with the reporting of victimization, there is an array of alternatives to formal or official mechanisms in the provision of redress to victims. Such alternatives may be grouped into two categories: on the one hand, the customary or traditional procedures that have been maintained in some countries alongside the official State judicial system, and on the other, the programmes or procedures that have been newly established as an alternative to existing formal court proceedings.

1. Use of customary or traditional mechanisms

49. Many countries (for instance Australia, Bangladesh, the Central African Republic, Ethiopia, India, Israel, Kenya, New Zealand, Nigeria, Togo, Uganda and Zambia) reported the existence of customary justice practices. The funda-

mental principle of such practices was to promote the reconciliation of the parties, allowing a continuation of the relationship between the victim and the offender. They usually involved not only the adversaries, but also family members and friends who tried to mediate between them and to arrive at an acceptable solution. Such customary justice practices were primarily used at the local level within a village or community.* A respondent from India reported that in rural areas, about 75 per cent of the petty village disputes were solved by the panchayats, informal courts operating within a village community, which dealt with cases of minor importance and aimed at reaching an amicable settlement through mediation, conciliation or the imposition of small fines. As indicated by one respondent, the use of such courts was similarly widespread in Bangladesh. The respondents from Nigeria and Uganda stressed that customary practices were generally used in rural areas and villages.

50. Traditional judicial mechanisms were frequently invoked for specific types of cases. Thus, for example, Togo stated explicitly that the customary justice practices were used only in civil cases, whereas penal matters were referred to the formal court system. Kenya, Nigeria and Uganda also listed mostly civil matters, such as determination of the legitimacy of children, questions of succession, and devolution of family property, for handling by traditional means. Customary justice mechanisms dealt with "petty offences punishable with small fines", in India, and compensation in cases of injury in Kenya. The Bangladesh village panchayats settled disputes of both a civil and criminal nature, and could compel offenders to make amends or to compensate. In Nigeria, cases of manslaughter could be dealt with by the village elders, and it was remarked in the reply from that country that "courts [even] advise villagers to settle matters according to tradition". In Ethiopia, the customary local justice systems "have the discretion to mediate and arbitrate very minor crimes not given by law to the ordinary courts' jurisdiction". It was reported that this way of handling minor crime cases was even encouraged by the criminal justice system, as it left open the option of dropping a case altogether or allowing a mitigation of criminal penalties.

51. Whether customary mechanisms were used depended not only on the level on which the cases had to be dealt with, and the kind of cases, but also on the groups of people involved. Thus, the Kenyan reply drew attention to the cultural differences among ethnic groups, even within the same country, that made for differences between their respective customary judicial systems. Accordingly, customary justice practices were seen to be applicable only where the victim and the offender were from the same ethnic group and even lived within the same community, in order to guarantee a common understanding of the procedures. The Zambian respondent stated that it was usually members of the less affluent classes who had recourse to the customary judicial ways, the difficulty being, however, that cases could only be resolved within that setting if the offender gave his or her consent, since the customary justice system was not legally binding. In some countries, traditional practices were in fact linked to more formal mechanisms of justice. Such was the case in Zambia, where formal rules of evidence and standards of proof were applied within a customary procedure aimed at reconciliation.

52. Respondents' evaluations of traditional procedures varied. In one country, it was observed that the customary judicial systems were, in fact, used less and less "because of the traumatic disruption of the traditional

*Very often they were confined to rural areas or to certain indigenous groups, such as the Aborigines in Australia and the Maoris in New Zealand.

society, because of the hostility of expatriate lawyers as well as indigenous lawyers trained in the expatriates' countries, and because of the widespread belief among the 'moderns' that they are 'outmoded' and 'primitive'. Many other respondents viewed the customary justice practices in a positive light. For example, it was noted that in India, "this [customary way of dispute resolution] has brought justice in petty cases to the doorsteps of the people ... It is justice according to common sense and principles of natural justice". The Bangladesh respondent concluded that "the traditional practices are quite good in bringing about peaceful and permanent solution"; while it was stressed in the reply from Mexico that where indigenous groups existed, it was important that their customary justice practices should be respected by State authorities. Many respondents saw great potential in such customary justice practices for dealing with victimization and argued for their further promotion and development. A respondent from India, for instance, suggested that the criminal justice system should invest the panchayats with formal authority to conduct inquiries and render justice. Similarly, it was pointed out in the Nigerian reply that civil as well as criminal cases could be much more effectively dealt with at the local level if they were left in the hands of the village elders rather than being dealt with by the police and other State agencies. The Kenyan reply suggested the training of justices of peace in "both modern and customary laws". It was suggested that in Australia special courts should be established in Aboriginal communities for the practice of their customary procedures. The Ethiopian Government had already taken steps to reinforce traditional mechanisms by appointing a legal research body to investigate the improvement of customary justice practices and to undertake reforms of the various codes of the country. A more indirect positive evaluation of customary judicial processes lay in the fact that many countries had established alternative official judicial systems that were often modelled on the principles governing those customary processes.

2. Mediation, conciliation and arbitration programmes

53. An important way for the victim in various countries to obtain redress was through recourse to alternative mechanisms involving mediation, arbitration and conciliation procedures. Although not all the countries replying indicated the existence of such programmes (and the 64 per cent that did differed in the instances and the extent to which they were applied), a wide range of innovative and effective alternatives seemed to exist. It was reported that in China mediation was the chief method of handling civil cases. In fact, from 60 to 70 per cent of all civil cases were resolved through mediation, with the People's Mediation Committees, other organizations (such as litigants' work units), or the court itself mediating the case. Such mediation might take place while a hearing was being prepared, during the hearing, out of court, or when the court was being adjourned. It was observed that almost 11 times more civil disputes were settled by the mediation committees (which were not a formal part of civil procedures) than were settled by the courts. It was stressed that mediation in no way impeded the rights of the litigants. The existence of reconciliation and mediation committees was also reported from Ghana, Kenya, Nigeria and Zambia. In Botswana, the system provided for cases to be heard before relatives or the head of the ward (local area) before they went to court.

54. As with the customary practices, the newly established mediation procedures were used mainly for civil cases and for minor offences. In Poland, "the possibility of renouncing formal court proceedings exists in the case of minor offences only". Similarly, it was stated for Ghana that the court might order reconciliation, provided the victim did not press for prosecution and provided, further, that the offence was not serious. The reason for the

choice of mediation committees in preference to the formal court process, as noted by New Zealand, was that they "provide a less formal setting than a court for settling small civil matters". That consideration also seemed to operate for other countries in regard to small claims courts and other relevant options.

55. As in the case of customary justice, the mediation schemes sought to resolve cases where the offender and victim had a continuing relationship. For example, the Australian respondent stated that "Community Justice Centers provide mediation services for minor disputes involving neighbours in on-going relationships". Similarly, in Poland there were neighbourhood mediation commissions and social courts in the work-place. Alternatives to formal criminal or other court proceedings also existed in Hungary, again only in matters of minor importance. New Zealand reported the existence of a family court, which "facilitates counselling and mediation", as "counselling can be arranged before legal proceedings are started". In Pakistan, mediation was used for disputes between spouses. In the United States, the Victims' Services Agency in New York State operated two mediation centres for the resolution of interpersonal disputes that would otherwise be dealt with in court.

56. Mediation, arbitration and reconciliation were commonly used where juvenile offenders were involved. In Canada, the availability of such services was reported mainly in respect of juvenile delinquency. Similarly, in Indonesia, mediation was available in cases where the offender was a juvenile. In Barbados, there was a Juvenile Liaison Scheme through which "juveniles who commit certain offences may receive a police caution as an alternative to formal court prosecution, provided both the victim and the offender's parents/guardian agree to this".

57. Many of the mediation schemes still existed on a trial basis, such as an experimental Mediation Project in Finland involving co-operation between the parties concerned. Norway reported a pilot project with "conflict counsels", whose purpose was to reach an out-of-court settlement between the offender and the victim "through face-to-face encounters under the surveillance of a publicly appointed negotiator". It was further explained that the procedure was aimed at motivating the offender to accept restitution agreements etc.: "If an agreement is reached, the Public Prosecutor may decide to drop the case or submit to the court that only a mild sentence should be imposed." In France, as an experiment in a few courts, the public prosecutor or agents commissioned by him verified whether reparation and conciliation were possible or not before instituting legal proceedings. In Austria, a pilot victim-offender reconciliation project had been initiated for juvenile courts.

58. Just as with customary justice practices, the new mediation and conciliation programmes can usually be applied only with the consent of the offender, as stressed in the Zambian reply. It was pointed out that in Nigeria "when a settlement is reached that does not meet the expectations of the victims, criminal and other court proceedings are resorted to"; nevertheless, the mediation committees had provided victims "with equitable reparation for crime committed against them". That positive evaluation of alternative ways of dispute settlement seemed to be shared by a large number of respondents. Some countries furnished research findings that revealed a great deal of success with those programmes as a means of reaching settlements, as well as a high degree of participant satisfaction with the procedures used.

3. Alternatives within the formal justice system

59. Provisions for mediation, arbitration and reconciliation are also available within the formal system of justice in some countries. For example, in

Bangladesh, it was reported that the Code of Civil Procedure included provisions for arbitration. In Colombia, both conciliation and arbitration were said to be used in civil and labour proceedings. In the Sudan, "Courts have adopted a permanent tradition to facilitate arbitration and conciliation. Conciliation committees which include members of both parties, and are guided by professional magistrates, are formed by the courts to settle disputes". In Japan arbitration or reconciliation could reportedly be pursued by "administrative committees attached to the national Government and local autonomies". In the Federal Republic of Germany, the institution of a local mediator (a lay person nominated by the city Parliament and appointed by the court) had been established to attempt reconciliation in minor cases of assault, injury, violation of privacy etc. Cases could not be brought to court unless the mediator had officially declared the procedure to be a failure. In Switzerland, many cantons required that at the early stages of a civil action, judges should do all in their power to press for reconciliation between the parties. In Togo, judges could act as conciliators in civil matters. In New Zealand, where traditional mechanisms of dispute resolution were continued by the Pacific Island communities, a clause included in the Criminal Justice Bill currently under consideration by Parliament stipulated that the court should take into account an offer of restitution to the victim made by, or on behalf of, the offender. While Zambia did not yet have such provisions, it was suggested that the courts should order restitution to victims simultaneously with punishment of the offender, rather than just securing restitution in a civil proceeding.

G. Restitution

60. Overall, three potential benefits of restitution* were noted by respondents. The first was the provision of redress for the physical injury, economic loss and/or suffering experienced by the victim as a result of the offender's actions, with the aim of mitigating the harm sustained. The second benefit was a symbolic recognition directly by the offender, and indirectly by the community, that the victim had been wronged and had thereby suffered moral as well as physical harm. That helped to restore the victims' sense of safety and justice, and tangibly affirmed the propriety of their conduct. The third potential benefit of restitution was that it promoted the rehabilitation of offenders through the admission of personal responsibility for an unjust act. That final benefit of restitution was seen as helping to provide a means of reintegrating offenders into the community and of reconciling them with their victims.

1. Mechanisms through which restitution may be obtained by victims

61. Table 7 lists the mechanisms by which restitution is available in the responding countries. As was to be expected, all the countries indicated that restitution was available to individual victims through civil court proceedings. The majority of the respondents commenting on this avenue of recourse felt that it was adequate for providing effective reparation to the victim, although the costs and delays frequently incurred were considered to be a problem. This form of recourse was, however, less often available (58 per cent of responding countries) for groups of victims through civil court class/group actions.

*As indicated in the footnote to paragraph 9 above, the term "restitution", as used here, refers to payment or services rendered by an offender (whether an individual, corporation, State or other entity), either to the direct victim or to indirect victims such as the family or community.

62. Another means of providing restitution is as a criminal court sentencing option, whether as an independent order or as a condition of probation or suspended sentence; 67 per cent of the countries reported the availability of such an option. For example, "in Finland restitution is almost always claimed in criminal proceedings", while in Thailand, "the Public Prosecutor applies for restitution of the property or the value thereof when instituting criminal prosecutions in cases of property crime". Similarly, in Czechoslovakia, it was reported that "any person who, through a crime, suffers from health and/or property damage, or suffers moral or another loss, may claim restitution in criminal proceedings. This practice has been used in all criminal cases".

Table 7. Mechanisms by which victims may obtain restitution from offenders, by number and percentage of countries indicating them

Mechanisms for restitution	Number of countries	Percentage
Civil court action by individual victims	67	100
Informal adjustment or agreement between offender and victim	58	87
Criminal court sentencing option: either as an order or as a condition of probation	45	67
Civil court class action of groups of victims	39	58
Result of pre-trial diversion programmes	31	46
Station house adjustment at police level	26	39
Order of criminal court for service to community	24	34
Result of deliberations of administrative tribunal	23	34
Condition of work release from prison or parole	17	25
Hearing by community, local board or tribal council	17	25
Other (private arbitration committees, post-conviction mediation, conflict councils etc.)	5	7

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

63. Several countries were reported to have recently enacted laws that facilitated the awarding of restitution in the criminal cases. Panama, for example,

enacted legislation in 1982 which "gives the judge the option of including restitution along with the sentence". In Italy, a 1981 law made it mandatory for conditional suspension of the penalty to be accompanied by some provision for restitution. In Poland, a 1976 Supreme Court pronouncement provided special guidelines for the protection of the victim's interests in criminal proceedings. A portion of that pronouncement required that "some attention be paid to the greater use of restitution as a sentencing option". In the United States, provision for restitution was found in the Federal Victim and Witness Protection Act of 1982. Under that law, the Federal Criminal Court, "when sentencing the defendant convicted of an offense ... may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of this offense". Furthermore, when the Court did not order restitution, it must state on the record the reasons therefor. In 1984, article 64 was added to the Swiss Constitution. It provided for restitution to the victim who had, as a result of an attack on his or her life or physical well-being, suffered economic harm. The judge could allocate all or a portion of the fine, paid by the perpetrator to the victim. In India, the necessary provision existed under section 357 of the Code of Criminal Procedure, 1973, which stated that "for every offence, the convicting court can direct the convicted offender to make restitution for the loss or injury caused to the victim". Increased use of the provision was reported by the Indian respondent "... due to the greater awareness of victims' rights".

64. Where laws do not provide for restitution as a sentencing option, or where existing laws are inadequate, many countries are considering enacting new provisions to allow restitution as a sentencing option in criminal proceedings or to facilitate its more frequent use. For example, in the Federal Republic of Germany, the fifty-fifth Deutscher Juristentag, which was held at Hamburg in September 1984, decided that restitution as a sentencing option should be introduced in the future. In the Netherlands, it was reported that a Government committee is looking into the United Kingdom model of compensation orders,* while in Turkey, a Ministry of Justice Committee that is currently revising the Turkish Penal Code may consider expanding the provisions for restitution.

65. In other countries, while no formal provisions exist for restitution in criminal cases, orders are nevertheless made at the court's discretion. In Indonesia, for instance, it was reported that "[restitution orders are] not regulated in the Code of Criminal Procedure, although the judge can link the restitution to a higher sentence ... for acts which are adequately covered by the Criminal Statute". Similarly, in one state in India "there have been some cases of progressive judges of the high court adopting restitution as a sentencing option, alone or with other obligatory sentences ... though it is not provided in the law".

66. Restitution may also be provided through administrative tribunals, for example, in respect of consumer complaints. In 36 per cent of the replies it was indicated that such tribunals were used to provide restitution. One example was the forbrukertvistutvalget in Norway: a board for resolving disputes concerning sales to consumers. The United Kingdom reported the existence of industrial tribunals, which had the authority to make restitution orders, and in Japan, arbitration and reconciliation were used to provide restitution under the Law Concerning the Settlement of Environmental Pollution Disputes.

*In the United Kingdom, the term "compensation" refers to payment of money to the victim, either by the offender or by the State.

67. One means of providing restitution, deemed extremely effective by many respondents, is through customary channels of redress. As with other customary practices they were reported to be used primarily in the smaller or rural communities; in some countries, they remained the primary mode of justice, as in Qatar and the Sudan, whose customary laws were those of the sharia.* Many of those customary practices not only allowed, but often required, the use of restitution as a sentencing option. Furthermore, many of the systems allowed for restitution to be obtained not only from the individual but also from the extended family of the offender, if possible. An interesting example of this is found in Nigeria, where, it was reported, the relations of an offender who was unable or unwilling to pay would be asked by a peer group sent by the village head to make restitution. The method was also applied in cases of manslaughter, where the relatives of the offender could help to pay restitution to the relatives of the victim, including the costs of burial and the respective ceremonies. The Nigerian respondent stressed that it was indeed the best way to secure restitution: "as the Government agencies do not pay much attention to this issue, people often have difficulties in obtaining restitution; only in rural areas where these customary redress practices work does this not seem to be much of a problem".

68. Another means of restitution mentioned frequently was that of informal adjustments or agreements between the offender and the victim, 88 per cent of the responding countries indicating that restitution in that manner was available. The mechanism could be used on an informal level before the initiation of formal proceedings, or in conjunction with formal proceedings, especially in civil courts. Respondents often stated that civil courts attempted conciliation or arbitration as a first step, particularly in the case of offences against property or minor offences. Where settlements were reached in that manner, either within or outside the court systems, they might be taken into consideration in the decision whether or not to prosecute an offence or in the sentencing of the offender.

69. Among the less frequently mentioned forms of restitution were criminal court orders for service to the community, 36 per cent of countries reporting that that option had been applied. Among the countries that indicated the availability of such "creative restitution" was France, where a recently enacted law (1983) provided for restitution through work in the general social interest. That measure had been found to be effective and satisfactory to the victim in cases of less serious offences. Similarly, in the United States, under the Federal Victim and Witness Protection Act of 1982, "with the victim's consent, restitution may be made in services in lieu of money, or restitution may be made to an organization or institution as designated by the victim".

70. It was indicated by 39 per cent of the countries that restitution might be made at the police level through "station house adjustment"; 48 per cent reported the existence of pre-trial diversion programmes. However, respondents offered little information on how either of those mechanisms worked or on the frequency of their application. Seventeen countries (25 per cent) indicated that restitution was made as a condition of parole or work release from prison.

*The sharia ("sheri") is the law of Islam, and includes both constitutional law and religious standards. The sources of the sharia are the Koran and, in some instances, rules of the customary pre-Koran law.

2. Injuries, losses, damages or other costs for which restitution may be ordered

71. Table 8 lists specific types of loss, damage, injury or costs that may be incurred by victims and the number of countries in which it was indicated that restitution was generally made for such victimization. As is shown in the table, the most frequently mentioned reason for which the victim might receive restitution from the offender is for loss of, or damage to, goods or property. Sixty-four (96 per cent) of the responding countries indicated that restitution could be ordered in such cases. That the frequency of positive responses in this category should be so high may, at least in part, be due to the more easily quantifiable nature of such losses.

Table 8. Types of injury, loss, damages or other costs for which restitution may be awarded, by number and percentage of countries indicating them

Type of loss, injury or costs	Number of countries	Percentage
Loss of, or damage to, goods or property	64	96
Medical expenses	56	84
Disability or disfigurement	53	79
Loss of earnings	54	81
Pain and suffering	51	76
Lawyers' fees or other legal costs incurred by the victim	48	72
Funeral costs	46	69
Loss of support for dependents of victim	42	63
Psychiatric treatment necessitated by the offence	40	60
Rehabilitation training or therapy	38	57
Relocation or restoration of dwelling/business/community due to environmental damage	29	43

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

72. Fifty-six (84 per cent) of the responding countries indicated that restitution could be made for medical expenses incurred by the victim as a result of the victimization. Fifty-four (81 per cent) reported that restitution was

ordered for loss of earnings. Fifty-three (79 per cent) stated that restitution was commonly awarded for disability or disfigurement. In 72 per cent of the countries, restitution was made for lawyer's fees or other legal costs incurred by the victim. In 76 per cent of the countries, restitution could be awarded for pain and suffering resulting from the victimization.

73. It was less frequently stated that restitution might be awarded for loss of support for the dependents of victims who had died or suffered significant physical or mental impairment. Approximately two thirds (63 per cent) of the responding countries mentioned that restitution might be awarded in such cases. This figure suggests that in a sizeable number of countries the dependents of the victim have few channels through which they might receive reparation for their loss.

74. In 60 per cent of countries it was reported that restitution was generally made for the costs of psychiatric treatment necessitated by the offence. That this percentage is markedly lower than many in the other categories could be due to a number of factors. The first one is that for restitution to be ordered for psychiatric care requires a greater understanding of a victim's psycho-social needs than may be present in the judicial community in many parts at this time. Secondly, in many areas the availability of psychiatric treatment may be limited, especially treatment geared towards the special needs of victims.

75. Another type of loss for which restitution was less often awarded was for the cost of rehabilitation, training or therapy. Thirty-eight (57 per cent) of the responding countries indicated that restitution was awarded for those expenses. In 29 (43 per cent) of the countries, restitution was generally awarded for the relocation or restoration of dwellings, businesses or the community due to environmental damage. That restitution for this category of injury or loss is so seldom awarded is perhaps due, in part, to the relative infrequency of restitution through class action suits or actions by groups of victims, the mechanism that is most suitable for obtaining an award for this type of offence.

3. Utilization of restitution

76. Despite the widespread availability of provisions for restitution in criminal proceedings, the extent to which restitution is actually used is somewhat unclear. Respondents from many countries suggested that, while provisions for restitution did exist, they were not applied as often as they could be. For example, it was found in a study conducted in Singapore that judges often did not require restitution in applicable cases owing to the lack of clear guidelines for the ordering of such awards and, also, the absence of judicial precedent. Similar considerations were also found to impede public prosecutors from applying for restitution on behalf of the victims. Respondents in other countries reported a prevalent sentiment among some judges in the criminal courts that restitution was the function of the civil courts, not of their own.

77. A number of respondents pointed out that restitution was seldom ordered because many offenders were unable to pay. In such instances, restitution was not only impractical, but might also occasion further harm. As one respondent observed: "to seize whatever meager assets they may hold might in fact exacerbate the factors that predisposed the offender towards the criminal behaviour in the first place". Still another respondent did not feel that the seizure and sale of the offender's assets was fair to the innocent dependents of that offender, and a respondent from Sweden argued that "in the case of ordinary

crimes (theft, robbery), the offender usually has no money. Restitution orders will therefore only make his/her possibility for rehabilitation impossible".

78. When the primary avenue for restitution is the civil courts, problems are often occasioned both by the slowness and difficulties of the judicial proceedings, and by the inadequate award that often results. Persons who have been victimized often have very immediate needs for financial assistance, and the delays that occur within civil proceedings can cause them acute hardship. Moreover, the awards received through the civil courts were seen by respondents as insufficient to meet the needs of victims and allow them to recover their losses. This appears to result partly from the victim's lack of sufficient means to secure legal advice or counsel. A basic and frequently mentioned problem was that victims were simply not aware of any right to seek damages through either the civil or the criminal courts.

79. The barriers most frequently mentioned as preventing victims from availing themselves of restitution through civil remedies can be summarized as: (a) ignorance of their rights; (b) poverty and financial inability to hire lawyers or to pay court fees; (c) cumbersomeness of civil litigation; (d) the protracted nature of civil litigation; (e) the futility of suing impecunious victimizers; (f) fear of further victimization if one dares to sue a powerful person; (g) non-availability of witnesses or of evidence such as police reports.

80. Even where restitution was ordered by either the civil or the criminal courts, respondents reported difficulties in the enforcement of the orders. Often, the burden was put on the victim, who must initiate the action to collect the sum awarded. One of the more commonly reported means by which such awards were collected was seizure of the offender's assets and sale of all property, the proceeds being given to the victim. If the offender failed to make payments, many respondents indicated that he or she could subsequently be imprisoned for non-payment, particularly when the offender has insufficient assets to cover the award or when restitution was given as a condition for parole or as a diversionary measure. As one respondent pointed out, imprisonment of the offender for nonpayment was "not a satisfactory way of going about it. When offenders are imprisoned, they cannot make restitution even if they wanted to do so." A respondent from Poland, while supporting the principle of restitution, expressed a similar concern: that the use of restitution as an alternative to all or part of a prison sentence might lead to inequality in sentencing owing to the fact that those of greater financial means would be more likely to avoid lengthy prison sentences. Another possible problem raised was that restitution might lead to the public perception of it as a way "to buy out of the administration of justice".

4. Policies and procedures designed to facilitate the use of restitution

81. In recognition of some of the difficulties in procuring restitution for the victim, many responding countries have initiated policies intended to overcome some of the difficulties mentioned. Some countries, such as Czechoslovakia and Sweden, reported that they allowed for payment to be made in instalments, or to be deducted from the offender's salary. The policy in Israel was that restitution orders should not be awarded in excess of what the offender could reasonably be expected to pay, thus helping to improve the possibility of compliance with the orders. In Panama, there is a move afoot among the legislators to pass a law whereby prisoners pay what they owe by having the money deducted from their prison salary. Another proposal was for increased payment for work done in prisons, comparable to wages that might be

earned outside, so that inmates, in turn, could make restitution payments to victims. Finally, it may be observed that the measures recently enacted in several countries which allow civil claims to be heard simultaneously with criminal cases help to reduce the procedural burdens on victims claiming restitution.

5. Bystander liability for non-intervention

82. Respondents in 34 of the countries in the sample (51 per cent) reported the existence of legislative provisions establishing liability for third-party bystanders who failed to intervene to assist an individual being victimized.* The nature of this liability varied from country to country. In India, for example, the responsibility of bystanders included both the reporting of criminal acts, as well as direct intervention to assist victims. According to an Indian respondent, "members of the public are to assist in bringing offenders to book under certain circumstances, to give information regarding offences, and may even arrest an offender committing a cognizable and non-bailable offence". In Sweden, bystanders were not required to intervene directly, but were expected to report a crime if doing so did not present a risk; liability for failure to prevent a crime existed only when the person committing the crime was under the care or control of the bystander. In the Netherlands, while there was no specific liability for failure to intervene, it was a crime "to leave persons who are in acute need of (medical) aid unattended". Article 219 of the Penal Code of Portugal established "an obligation of social solidarity", whereby bystanders must intervene in cases of grave necessity. Failure to do so was punishable by a sentence of up to 100 days imprisonment.

83. As in the case of Sweden, bystander liability laws generally excluded situations where there would be substantial risk in taking action. In Brazil, for example, there were "legal protections when the bystander fails to intervene to assist the victim in case of personal risk". Similarly, in Austria, "not giving assistance which is obviously necessary to save the victim ... is a criminal offence, unless intervention would involve danger for oneself or a violation of other legitimate interests"; moreover, "bystanders who become victimized in the course of a crime of violence are entitled to compensation from public funds for personal injury and resulting incapacity".

84. Bystanders who intervened in victimization were often provided some form of immunity for their actions. In Panama, for example, "not helping is punishable by law, and third-party involvement is a legitimate defence for protection of person and property". In Finland, "bystanders who intervene may justify their action under the provisions for self-defence and/or compulsion", and in France, the bystander might also have protection on grounds of self-defence or with the excuse of incitement. In Poland, bystanders who intervened alone were protected by civil and criminal law, while those who intervened in conjunction with the police were protected by special additional provisions. Similarly in Honduras, "the penal code considers defence by a third-party as legitimate, in which case they are exempt from penal responsibility". Protection for bystanders could also be provided by allowing them to remain anonymous, as in Belgium, where "if necessary, the names of the informers can remain secret".

*Most respondents did not, however, clarify whether those provisions obtained under criminal or under civil law.

85. In some countries, bystanders might avail themselves of the same indemnification options available to victims. In Israel, "the bystander is covered by national insurance and so is a citizen injured while coming to the assistance of law enforcement officers". In Japan, "Compensation is given to the person who assisted the police and was victimized by offenders". In the United Kingdom (Northern Ireland), while no legislative provisions for liability of third-party by-standers existed, there was compensation for having tried to prevent harm or for assisting a victim in distress.

86. That such laws invariably provided the desired impetus for bystanders to aid victims was questioned, however, by at least one respondent: "There is legal provision to intervene and for protection of the person who does so, but such occasions are becoming rare. People are becoming indolent or try to avoid their involvement as witnesses because of the long, drawn-out process of dispensation of justice or other types of harassment."

H. Compensation

87. In a little more than a quarter of the 67 responding countries (28 per cent), it was reported that formal compensation programmes had been established where the courts or other tribunals awarded payment from public or State funds to victims of conventional crimes. In the vast majority of those cases (95 per cent), compensation programmes were reported to have been in existence for more than five years, the exception being Japan, whose compensation programme (the Crime Victims Benefit Payment Law) took effect in 1981.* No compensation programmes were reported to have been established within the last year. In Turkey, however, preliminary work has been undertaken on the establishment of compensation programmes for victims of violent crime, in connection with the signing of the European Convention on the Compensation of Victims of Violent Crimes (1983). Switzerland, following a recent constitutional amendment, reported that it would in the near future offer equitable compensation to victims of conventional crimes, in certain cases (for example for physical injury or loss of life). Similarly, it was reported for the Republic of Korea that such programmes were under consideration. In some countries where specific compensation programmes had not been established, the existence of free medical aid and the wide scope of insurance coverage were noted as factors that mitigated, to some extent, that disadvantage.

88. Generally, the compensation programmes reported functioned on a nationwide basis. Notable exceptions included the United States of America, where compensation, although financed in part by federal revenues, was administered on a state-to-state basis, without every state having an established programme. Similarly, in both Canada and Australia, compensation programmes were administered on a provincial or state basis, the determination of victim

*It must be noted though that, in recent years, programmes in some countries have been strengthened (for example through the introduction of new legislation), or have been provided in an increasing number of states or areas, or to broader classes of victims. In the United States of America, for instance, the recently enacted Victims of Crime Act of 1984 provides for Federal financial assistance to state victim compensation programmes and victim services. In France, an act of 8 July 1983 abolished the requirement for compensation that victims should submit to a means test and demonstrate serious economic need. It also mandated a 10 per cent levy on the earnings of prisoners for their victims.

eligibility, minimum and maximum payments and grounds for denial of compensation differing accordingly.

1. Eligibility for compensation

89. Table 9 indicates the types of victims eligible for compensation in the responding countries. Those most often eligible for compensation are victims of violent crime for which the offender has been convicted. Sixteen of the 20 countries (84 per cent) reporting the existence of compensation programmes indicated that compensation could be paid in such cases. Slightly fewer, 15 (79 per cent), of the compensation programmes reportedly provide benefits to victims of violent crime in cases where the offender has not been convicted. For example, in the Central African Republic, in cases involving terrorism, the Government would compensate the victim if the perpetrator was not apprehended. That policy was paralleled under French law, which called for State compensation when the perpetrator of a violent crime was either unknown or indigent. Fifteen (79 per cent) of the compensation programmes provide payments to the dependents of deceased victims who are unable to provide for their own support. In Japan, survivor benefits were extended to a person who has been in substantially the same relationship as a marital one, though not officially registered.

90. Victims of property crimes were less often reported to be eligible for awards from compensation programmes. Eight countries reported victims of property crimes as being eligible for compensation should the offender have been convicted. Six countries indicated that the victim of a property crime was eligible for compensation when the offender had not been convicted. In several of the countries, compensation was awarded for property crimes only when the offender had recently been released or had escaped from a public institution. The reply from the United Kingdom suggested that greater consideration should be given to extending insurance coverage for property loss.

91. More than four fifths (79 per cent) of the countries with compensation programmes indicated that eligibility extended to foreign nationals as well as to citizens or legal residents. Generally, that extension of eligibility was limited to victims whose country of origin had entered into a reciprocal agreement with the country that would be making the compensation award. One Government noted that, since the necessary reciprocity agreements were not in effect, the majority of foreign workers in that country were not eligible for compensation, even though many of them were permanent residents and paid taxes in that country.

92. Eligibility for compensation was generally not extended to crimes which occurred outside a country's borders, unless the victimization had occurred on a vessel or aircraft belonging to the country. One exception was Sweden, which would pay compensation even if the victimization did not occur in the country, providing that the victim was a resident of Sweden (though not necessarily a citizen).

2. Injuries, losses, damages and other costs covered by compensation

93. Table 10 lists the types of injuries, damages, losses or other costs for which compensation is most commonly awarded. As can be seen, in 18 of the 19 countries reporting the existence of formal compensation programmes, compensation payments could be awarded for such losses or damages as medical expenses. All 19 countries provided compensation for loss of support to dependants of victims, and for disability or disfigurement. Welfare provisions in the United

Kingdom covered medical needs, including those occasioned by emotional problems and extreme financial hardship, whatever the cause (criminal or not). France suggested that "there should be a better evaluation of damages caused to certain victims (for example in cases of rape or maltreatment of children), since the criterion is still industrial disablement". In addition, 16 countries indicated that compensation awards might be made for loss of earnings. Fourteen countries reported that compensation could be awarded in reimbursement of rehabilitation, training or therapy costs or the costs of psychiatric treatment necessitated by the offence. Types of loss, damage, or injury for which compensation was less often awarded included funeral costs, awards for pain and suffering, loss of or damage to goods or property, and reimbursement of lawyers' fees or other legal costs incurred by the victim. In the Federal Republic of Germany, for every case of severe damage resulting from infringement of the right of privacy, there must be compensation (Schmerzensgeld). The Law for Protecting Personal Data also contained safeguards against computer crimes.

Table 9. Types of individuals eligible for compensation, by number and percentage of countries indicating them

Types of individuals	Number of countries	Percentage of all responding countries (N = 67)	Percentage of all responding countries with compensation programmes (N = 19)
Victims of violent crimes for which the offenders have been convicted	16	24	84
Victims of violent crimes for which there has been no conviction	15	22	79
Victims of property crimes for which the offenders have been convicted	8	12	42
Victims of property crimes for which there has been no conviction	6	9	32
Dependants of deceased victims and victims unable to manage their own affairs	15	22	79
Only legal residents and citizens	5	7	26
Foreign nationals, as well as citizens and legal residents	15	22	79

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

Table 10. Types of injury, loss, damage or other costs for which compensation may be awarded, by number and percentage of countries indicating them

Types of injury, loss, damage or other costs	Number of countries	Percentage of all responding countries (N = 67)	Percentage of all responding countries with compensation programmes (N = 19)
Medical expenses	18	27	95
Loss or earnings	16	24	84
Loss of support for dependants	19	28	100
Funeral costs	13	19	68
Short-term emergency awards for immediate assistance	7	10	37
Cost of victim rehabilitation	14	21	74
Lawyers' fees or other legal costs	10	15	53
Psychiatric treatment for victim	14	21	74
Awards for disability or disfigurement	18	27	95
Awards for pain and suffering	12	18	63
Loss of or damage to property	11	16	58
Other (e.g. damages concerning professional aptitude, damage to glasses)	5	7	26

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

94. The form of compensation that seems most conspicuously lacking that of short-term emergency awards for those experiencing severe financial difficulty

who are without immediate aid. Only seven countries with compensation programmes (37 per cent) indicated that such awards might be made. One such exception was Mexico, in which the compensation programmes were administered solely for the purpose of providing relief to victims who were in immediate financial need. The programme also provided similar relief to the dependants of deceased victims who were unable to provide for their own support. Similarly, in Poland, a fund existed to provide financial assistance in emergency cases.

3. Financing of compensation

95. Compensation programmes for victims of conventional crimes are financed, at least in part, from general government revenue. All 19 countries reported that general government revenue contributed to the financing of compensation programmes. In 11 countries (55 per cent), that source of revenue constituted the sole means of financing. In an additional eight countries (43 per cent), general government revenue contributed to funding and was supplemented by particular methods of recovery from offenders, such as fines.

4. Financial limits of awards for compensation

96. The clear majority of the countries with compensation programmes reported having established both minimum and maximum amounts for compensation awards, although the data did not lend themselves to calculation of the exact number of countries in which that was the case. To a large degree, the minimum and maximum laid down served as a means of regulating the costs to Governments of the administration of such programmes. The minimum might be simply a set limit on the amount of the award to be given or it might be related to some minimum level of disability. In Spain, no limits existed "in principle"; the amount of compensation was set according to "the general judicial principles established in civil, penal and administrative matters, and by the amount of harm suffered by the victim. In cases of terrorism, the Government determines the amount and conditions of compensation along the same principles."

97. In many countries with compensation programmes, the parameters for the amount of compensation to be paid and the degree of disability that rendered the victim eligible were based on previously existing standards. In one case, standards were based on military disability and in another on industrial codes. At least one respondent felt that the use of such standards should be reassessed, since the social context in which the victimization occurred was quite different from that in which, for example, military disability was incurred.

98. In the Federal Republic of Germany, compensation was awarded when the injury represented or exceeded a 25 per cent loss in earning capacity sustained for a duration of at least six months, the amount awarded increasing up to some maximum depending on the degree of disability greater than 25 per cent. Payment was then made in installments for the length of time that the injury lasted, or until the death of the victim. In Japan, the minimum degree of disability for which compensation might be paid included neuro-functional or mental disorders involving permanent inability to work or an equal or greater degree of incapacity.

99. In several countries, it was reported, substantial discretionary powers were vested in the boards or tribunals charged with granting the compensation awards. For example, if the victim failed to report the victimization within a specified period of time, the awarding body might determine that the individual was ineligible for compensation. Similarly, the granting of benefits was sometimes contingent on the degree of victim co-operation with law enforcement officials. If it was apparent that the victim had not done everything in

his or her power either to aid the police in apprehending the offender or to help to collect the evidence needed to convict him or her, compensation could be denied. A number of respondents speculated that such constraints might discourage victims from applying for benefits justly due to them.

100. Another discretionary factor that might influence the awarding of benefits was whether the victim had been in any way responsible for the offence. In cases where the victim had in some way provoked the offence or had not done everything possible to prevent it, most programmes provided that compensation shared should be reduced or denied. In some instances, compensation might even be denied if the victim had consumed alcohol prior to the offence. In certain countries, compensation might be withheld on the basis of the victim's relationship with the offender: for example, in some cases the victim might not receive benefits if the offender was a member of the family. At least one respondent questioned that policy, observing that in a large number of cases of victimization there was some relationship between the victim and the offender.

5. Public awareness of compensation programmes

101. All but two of the countries in which compensation was reported to be available employed some measures to promote public awareness of the programmes (table 11). The method most commonly reported (84 per cent) was the distribution of printed materials, such as brochures or posters. In some cases, the police informed victims of the resources or schemes available, although the degree of compliance with that policy was uneven. Overall, 15 countries reporting compensation programmes indicated that awareness was promoted through notification by agencies coming into contact with the victim, such as hospital personnel or social service staff. As in the case of the police, such agencies were not always required to provide relevant information, but it was requested that they do so. Active "outreach" efforts by the staff of compensation programmes, either through the screening of police reports or through direct notification of victims, were comparatively infrequent. Also seldom reported (26 per cent) was the use of public service announcements on television or radio.

I. Compensation for victims of abuses of public and economic power

102. The issue of compensation payments from government funds for losses, damages, injuries or costs resulting from abuses of public or economic power is complicated to some extent by the sensitivity of the topic. Respondents were asked to indicate whether compensation from public or State funds had been provided for various forms of abuses of public or economic power (table 12). Some of the respondents simply left many of the questions blank, particularly those inquiring about payment of compensation for "arbitrary executions or disappearances" and "torture or other cruel, inhuman or degrading treatment or punishment". Others observed that the question of compensation for several of the offences listed (notably the above-mentioned) was not applicable in their countries.

103. A second complication in the analysis of replies on this issue arises from the different ways in which respondents categorized awards made for offences perpetrated by the State or its officials: on the one hand, as compensation for public or State funds, or on the other hand, as restitution by an offender (including a corporation or the State). There were a number of respondents who reported that no compensation had been paid, but mentioned

that civil claims for damages or restitution could be brought against the State. Others who indicated that compensation had been paid were quite clearly referring to awards made through civil suits.* For instance, in the Federal Republic of Germany, it was reported: "The principle is: if a public servant neglects his duties towards a citizen and by this neglect the citizen is damaged, then the employer of the public servant is liable to the citizen. This is a civil law action and may be regarded as compensation if the claim is successful." It was observed that in Mauritius compensation existed for all kinds of abuses: "When it was awarded by a court of law, it was always after civil action against a Government body or official."

Table 11. Means of promoting public awareness of compensation programmes

Means of promotion	Number of countries indicating promotion of public awareness	Percentage of countries providing compensation (N = 19)
Distribution of printed materials, such as brochures and posters	16	49
Notification by other agencies coming into contact with victims	15	23
Police required to inform victims of available resources and schemes	9	14
Notices in newspapers, magazines etc.	6	9
Use of public service announcements on radio and television	5	8
"Outreach" activities by staff of programmes, such as screening police reports	4	6
No specific methods employed	2	3

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

*In view of these differences and the sensitivity of the issue, the figures listed in table 12 should be interpreted with caution.

104. The figures cited below reflect the number of countries for which it was in fact indicated that compensation had been paid for the offences mentioned. As for those countries for which it was not mentioned that compensation had been awarded, it is not known whether the offences had not occurred, or whether they had occurred and compensation was not available. Thirty-three countries (49 per cent of all responding countries) indicated that compensation from public or State funds had been provided for victims of judicial error or wrongful imprisonment. A number of other countries specifically indicated that, while no such award had yet been made, judicial provisions for awards did, nevertheless, exist. It was indicated that, in Mexico and Portugal, the question of compensation in cases of judicial error was currently under consideration. For some countries, where it was noted that compensation had not been awarded in such case, the reason cited was an absence of instances of judicial error or wrongful imprisonment. Others noted that, while compensation in such circumstances had been paid, the frequency of instances necessitating such action was relatively rare: "It is very seldom applied to practice" (Greece).

Table 12. Compensation for abuses of public and economic power, by number and percentage of countries providing information

Type of abuse	Number of countries	Percentage
Arbitrary <u>a/</u> arrest or detention	24	36
Arbitrary executions or disappearances	6	9
Torture or other cruel, inhuman, or degrading treatment or punishment	14	21
Arbitrary seizure of assets or property	17	25
Environmental pollution or other damage	18	27
Offences against consumers (e.g. distribution of unsafe production)	13	19
Offences against labour safety	14	21

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

a/ While indicating that payment had been made from public funds, most respondents preferred the term "wrongful" to "arbitrary".

105. Regarding other abuses of public or economic power, compensation was most frequently reported to have been awarded in the event of "arbitrary arrest or detention". Twenty-four (36 per cent) of the responding countries reported that public compensation had been awarded in such cases. Respondents in many of the countries reporting such to be the case did, however, take exception to the term "arbitrary", suggesting that "wrongful" arrest or detention more accurately described the circumstances in which the compensation was awarded.

106. Among the other more frequently mentioned abuses for which compensation had been awarded was "arbitrary seizure of assets or property". Seventeen countries (25 per cent) reported that compensation had been awarded in those cases. Eighteen countries (27 per cent) indicated that compensation had been awarded for environmental pollution or other damages, though generally as a result of civil action by the victims. One example of the establishment of a specific compensation fund was provided by the respondent from Mexico, where in 1981, following a major case of environmental pollution, the company responsible provided funds for the victims and the families of deceased victims. In that case, the fund was, indirectly, publicly financed, as the company was State-owned. In Japan, it was reported that a Pollution-related Health Damage Compensation Law had been enacted in 1974.

107. Thirteen countries (20 per cent) reported that compensation had been paid for injuries resulting from offences against labour safety. In the Seychelles, a number of cases were reported in which compensation had been awarded to victims who suffered injury as the result of the inadequate enforcement of labour safety regulations. In Portugal, a fund existed specifically to pay compensation in cases of permanent incapacity or death resulting from work-related accidents where the entity normally responsible was insolvent or unable to make payment. Offences against consumers, such as distribution of unsafe products, had resulted in compensation payments to victims in 11 countries (18 per cent). The areas least frequently indicated as having prompted compensation awards were "torture or other cruel, inhuman, or degrading treatment or punishment" and "arbitrary executions or disappearances". Twelve (19 per cent) and six (9 per cent) of the countries, respectively, indicated that compensation had been awarded in such circumstances. In one case it was observed that such compensation might be awarded even in cases where the offender had not been apprehended or convicted.

108. Spontaneous comments suggest that a large number of countries have legal provisions for compensation of victims in case of abuses of public power. It seems that indemnification for such abuses is mostly available to victims through the institution of civil proceedings. Compensation funds established specifically for that purpose are rare. Some countries reported that provision was made for compensation to victims of abuses of economic or public power through the expansion of formal compensation programmes established for conventional crime victims. In still other countries, where there is no direct compensation available from the State, victims are covered by public insurance financed by the State. Finally, some countries indicated that legal provisions existed to provide indemnification in such cases, without specifying what mechanisms were to be employed by victims to receive that compensation.

109. In Bolivia, "the law provides that the person who has been wrongfully prosecuted and sentenced and later declared innocent shall have the right to indemnification for all the damages and injuries suffered because of the trial. Indemnification shall be given by the judges or public officials that caused the wrongful trial." Similarly, Sweden indicated that there was "a special law on compensation in cases of arrest, detention or imprisonment without sufficient reason". In Austria, there were "general laws concerning State liability which provide for compensation in cases of unwarranted pre-trial

detention", while under the Turkish Law on the Compensation of Individuals who Are Arrested or Detained Illegally (1964), compensation from State funds had been provided in 46 cases.

110. In Uganda, compensation was paid "in cases of abuse of public power only after the victim has lodged in a civil suit and the State is found to be vicariously liable for the actions of the law-enforcement agents who perpetrated the arrest or deprivation of property". Jamaica reported that civil liability might be [assigned] for wrongful imprisonment", but it must be shown that there was no reasonable cause for the imprisonment ... Should any abuse of such power be proven in Jamaica which could form part of a civil action or a constitutional motion, then the Government can provide remedies giving the victim of such abuse of power monetary compensation. Such award can include an award of exemplary damages to reflect the condemnation of such abuse of power."

111. In Czechoslovakia, there was a law providing for State responsibility for damages caused by decisions of a State body or by incorrect official procedure:

"We consider the ... law a significant preventative means which limits and preventatively acts against any decisions interfering with the rights, freedoms and justified interests of citizens". In Spain, "when damage or injury suffered by the victim results from the malfunctioning of public services, the victim has a right to compensation from the State, who will, in turn, be able to get full reimbursement from the functionaries if they are found guilty".

112. Canada reported, with regard to the federal and provincial Charters of Rights, that while they did not provide for a compensation fund, the Commissions created to enforce those Charters gave all legal support to obtain compensation from the State or other bodies. A respondent from the Federal Republic of Germany noted that under the Wiedergutmachung provisions, his Government had given substantial indemnification to the victims of abuses perpetrated under the National Socialist régime.*

113. With regard to compensation for victims suffering injuries or loss due to environmental pollution or other damage, the comments offered by responding countries indicate that this is an area that is just beginning to receive consideration. For example, Czechoslovakia suggested that, "nowadays, it seems appropriate to expand compensation in the field of damages due to environmental pollution". Sweden stated that, "as yet there has not been any major case of, for example, grave environmental pollution due to an accident in a nuclear reactor in Sweden. In such a case and in other cases of severe far-reaching pollution, in general, the question may arise whether ... it will be possible to raise a sufficient amount of money, and [whether] the damages [will] be restorable physically." Austria noted that in the case of environmental offences, only the minority were covered by compensation: "This could give rise to the opinion that a major extension of the schemes into [this] field may be appropriate (which is, of course, difficult to adopt because of the financial implications)."

*The Wiedergutmachung provisions are elaborated in the Federal Law of the Compensation of the Victims of National Socialist Persecution (Bundesentschädigungsgesetz of BEG). These provisions provide for indemnification for those persecuted on national, ethnic, racial, religious, political, ideological or comparable grounds who have suffered physical injury or loss of freedom, property, income, or professional and financial advancement as a result of that persecution.

114. While recognizing the complexities involved in the provision of compensation of environmental and other economic abuses from public funds, a number of respondents nevertheless called strongly for the expansion of provisions for compensation to victims of such offences.

J. Availability of health and social services

115. Table 13 shows the availability of health and social services for victims in the responding countries. Respondents were asked to indicate whether or not the services listed were available, and if available, whether the specific service or facility was provided publicly, privately, or both. It was not generally indicated, however, what the extent of availability of such services was, nor their effectiveness, nor the cost to the victim for their utilization. Although not available in quantified form, such information was provided in some instances in the additional remarks or qualifications volunteered by the respondents.

1. Hospital and medical services

116. The vast majority (91 per cent) of the respondents reported the availability of hospital and medical services for victims.* In all instances, such services were publicly provided, and in 32 additional cases (50 per cent), public hospital and medical services were supplemented by private facilities.

117. The question of the adequacy of hospital and medical services has many aspects. It was suggested in the replies from some countries, especially those with large and complex medical systems, that their main concern was with better training of medical personnel in the psycho-social aspects of victimization. Respondents from other countries, however, were less concerned about specialized problems such as victimization than in the creation of a health-care system that could meet the health-care needs of its general population.

118. A significant constraint on the accessibility of medical treatment and hospital services for victims was the lack of means of payment for the services. In many countries free health care was afforded to all persons, including victims, and others provided national health insurance to all persons at a low cost. For example, in Australia, Czechoslovakia and Hungary, universal public medical insurance was available to all persons, and in Canada, "every citizen ... is fully covered for all medical expenses". Finland also had compulsory public health insurance for all citizens. In Zambia, health services were available gratis to all persons, and in Kuwait, "medical care is offered free to victims, including operations and medications".

119. Comments from respondents in other countries, however, suggested that there remained a sizeable number of victims who could use the medical services, even when they were available, because of the costs of such services. In many countries, insurance that would cover medical expenses was simply not available to most people and, in others, while insurance was available, those persons who are less fortunate financially are both at highest risk of victimization and least likely to have coverage.

*It is possible that, for the remaining 9 per cent, respondents were thinking of the provision of free hospital and medical services when they did not indicate the availability of such services.

Table 13. Types of public and private health and social services available for victims

Types of services	Countries providing services							
	Publicly only		Privately only		Both publicly and privately		Total	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Information to victims on court procedures	18	27	5	8	15	22	29	43
Information to victims on services available	16	24	7	10	14	21	37	45
Victims' outreach programmes	9	13	6	9	7	10	22	33
Emergency services (e.g. clean-up)	20	30	1	2	13	19	34	51
Hospital and medical services	34	51	0	0	27	40	61	91
Crisis counselling	8	12	11	16	15	22	34	51
Psychiatric and psychological services	25	37	3	5	24	36	52	78
Emotional support services	9	13	12	18	12	18	33	49
Shelters for battered women	7	10	13	19	10	15	30	45
Foster placement for abused children/youths	27	40	5	8	27	40	59	88
Integrated victim assistance schemes	5	7.5	5	7.5	5	7.5	15	22

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

2. Emotional support services

120. One of the most urgent needs of a person who has been victimized, aside from attention to the physical injuries, is immediate emotional support and reassurance. Of the countries responding, about half (49 per cent) reported that emotional support services were available. They were provided solely by the public sector in 9 countries (13 per cent), by the private sector in 12 countries (18 per cent), and by both the public and private sector in an additional 12 countries (18 per cent). Very often, such services were part of a comprehensive package of services available for special categories of victims, such as sexual assault victims and victims of child or spouse abuse.

3. Crisis counselling

121. One service that seems to be receiving increasing attention is intensive, short-term crisis counselling. Replies showed that crisis counselling was provided in 34 (51 per cent) of the countries. In eight of the responding countries (12 per cent), it was available solely through the public sector, in 11 (16 per cent) it was provided privately, and in 15 (22 per cent), it was available through both public and private sector facilities. Australia, for example, had a mobile Crisis Intervention Centre on a 24-hour basis in one of its major metropolitan areas. In Finland, the Ensi Kotien and Naisunioni* offered shelter, legal advice and telephone consultation on a round-the-clock basis to victims of family violence.

4. Special or innovative victim services or programmes

122. Respondents from a number of countries reported the development of services or programmes that they felt were exemplary or innovative. Brief descriptions follow a sample of such programmes. Where possible, they are grouped according to the kind of service provided.

123. Respondents in some countries mentioned certain forms of victimization which, although not new in themselves, had begun to receive considerable attention. For crimes such as rape and child abuse, new legal provisions had been enacted in several countries in order to deal more adequately with the victims of those acts. In Australia, where child abuse was receiving more attention, remedy was sought through the welfare system and family therapy, only the most extreme cases being directed to the courts; and in Sweden, the new awareness had stimulated the provision of both moral and practical support for victims of sexual assault and child abuse.

(a) Child protection

124. Foster placement or residential facilities for abused or neglected children and young persons were reported to be available in 56 (88 per cent) of the countries. In 27 cases (40 per cent), such services were publicly provided, in five (8 per cent) they were available privately, and in 27 (40 per cent) they were available both publicly and privately.

125. In many countries, the issue of child abuse and neglect is receiving increasing prominence, and many new measures are being employed in an attempt to find solutions to the problem. For example, Brazil reported the existence of a private organization offering aid to abandoned youth. The reply from

*Voluntary victim assistance groups in Finland.

Belize mentioned the availability of both hostels and foster homes for children. In Israel, "the Assistance for Battered Children program participates in the education of the public and assistance in individual cases".

126. In Austria, the "Vienna's Children's Telephone", established under the auspices of both the Federal Ministry for Family Affairs and the City Council of Vienna, received emergency phone calls on a 24-hour basis from children throughout the country who were being victimized or were otherwise in need. In New Zealand, "services range from local or regional child protection teams, which have a multi-disciplinary approach, consider cases of alleged or actual child abuse referred to them, and undertake a case diagnosis and case management function, to telephone counselling services available to parents and children". In the United Kingdom, the Incest Crisis Line, an emergency telephone crisis service, provided counselling and support for victims of incest and child sexual abuse. It was also reported that there was an Incest Survivors Campaign aimed at improving the services available to persons who had been the victims of sexual abuse in childhood.

(b) Shelters for battered women

127. Although domestic abuse is not a new form of victimization, it is one that has recently begun to attract widespread attention. Thirty countries (45 per cent) reported the existence of shelters for battered wives. Seven (10 per cent) provided them publicly, 13 (19 per cent) provided them privately, and in 10 countries (15 per cent), they were provided both publicly and privately. As with many of the other facilities offered under the heading of social services, a question remained whether existing programmes could meet existing needs, and whether they covered a wide enough geographical area. Overall, assistance for victims of domestic abuse was one of the areas most frequently mentioned as requiring improvement.

128. Despite such concern, excellent examples of innovative and effective programmes can easily be found, many of them conducted by private, volunteer, non-profit organizations. For instance, it was reported that in the Netherlands "Flijt van mijn Tijd" ran homes for battered wives and provides crisis intervention services. In New Zealand, a network of some 25 women's refugees throughout the country provided support to women and children who had fallen victim to domestic violence. The programmes were administered and financed on a volunteer basis. They provided 24-hour telephone consultation, emergency accommodations and support for women in their dealings with government agencies, the police, courts and medical service providers: "they also provide preventative and rehabilitative programs for women and children as well as follow-up services and on-going practical support".

(c) Rape crisis centres

129. It was reported that in Israel, there were four rape crisis centres "to assist and counsel victims". They provided individual counselling, referral, medical, legal, social, psychological and psychiatric services. Some of the centres had been established in conjunction with hospitals and co-operative agreements were maintained with the police. From Barbados it was reported that a "rape crisis volunteer team, under the aegis of the Business and Professional Women's Club" had been proposed. It aimed at providing counselling for rape victims and their relatives. In Northern Ireland, the Government-funded Belfast Rape Crisis Centre provided counselling, advice, and support to women and girls who were victims of rape, incest, or other sexual abuse.

(d) Comprehensive or integrated victims assistance schemes

130. In one area of Canada, a victims' assistance programme contacted every victim of violence within 24 hours of victimization to offer help and provide information. In the Federal Republic of Germany, the "Weisser Ring" provided assistance and financial help to victims of crime who were in need. It also acted as an "advocate for the interests of victims in public". In many parts of the United Kingdom, the National Association of Victims' Support Schemes adopted an "outreach" approach and offered immediate crisis intervention services and appropriate referrals. Its member organizations did not rely on victims taking the initiative of visiting an agency; they screened police reports and used home visits, letters and phone calls to initiate contacts and other support, information and referrals. In one area of the United States, the Victim Services Agency operated a Crime Victims' Hotline seven days a week, on a 24-hour basis, providing victims with crisis counselling in both English and Spanish, information and referral, and advocacy services. It also operated court-based and neighbourhood-based offices, as well as centres located in the emergency rooms of several major hospitals.

(e) Community-based services and informal arrangements

131. Some respondents suggested that in cohesive community settings the victim's needs, both psycho-social and financial, were adequately met by family and friends, with social network support. This, it was stated in the Zambian reply that "as for social services for victims, in line with existing social values, such social services are available from relations and friends and cannot be accepted to come from the State". In China, the Association of Women's Organizations, in addition to providing advice and legal services to women and child victims, offered support in the form of "letters and visits from the people". It was recommended that such arrangements should be encouraged and only where necessary supplemented or replaced by more formal public programmes. In countries where primary and social relationships had been weakened, the provision of special services was particularly important, although family and community support still played a critical role.

5. Areas for improvement of services

132. Respondents from many countries suggested mechanisms for improving medical and social services for victims. The following were among the most frequent recommendations:

(a) To invest in mechanisms for better co-ordination and integration of services so as to maximize their impact and reduce redundancy;

(b) To undertake programmes for promoting greater public awareness of services;

(c) Where appropriate, to initiate "outreach" programmes to contact the multitude of victims who did not apply to formal programmes;

(d) To be sure that programmes were adequately staffed and budgeted;

(e) To ensure access to such services in more geographical locations. Even where excellent programmes existed, they were as a rule only found in major urban areas and thus able to serve only a small percentage of the population;

(f) To establish constructive relationships with the police, the judiciary, and medical and social service personnel;

(g) To stimulate greater awareness among professionals of the particular needs of victims, and to improve training of professionals in this field;

(h) To provide more short-term care directed to the immediate material and emotional needs of victims;

(i) To capitalize on "natural healing" mechanisms within the community.

K. Measures for new and special kinds of victimization

133. Few respondents provided information on the steps that had been taken to provide redress and assistance in cases of new or special kinds of victimization (such as those resulting from terrorism or computer crime). It was observed by some that such victimization was not considered to be a problem in their countries. When mentioned, little specific legislation was described that would deal with such crimes, let alone provide compensation to the victims. Many respondents indicated that State legal systems often attempted to "make do" with the laws already in existence, and some reported a general reluctance on the part of the criminal justice system to supplement or amend existing laws in order to provide for new or non-conventional crimes.

134. A sense of special urgency was conveyed by some respondents in regard to the provision of redress for victims of terrorist acts. Some States that provided no compensation for victims of conventional crimes did provide such assistance to victims of terrorism. The compensation was not authorized by formal legislation in a number of cases but was instead provided when needed or when the Governments felt it was appropriate. In Belgium, special protection was afforded to potential victims of terrorism; and in Italy, laws had been enacted providing for the payment of compensation to public officials, private citizens, non-residents and aliens who were the victims of terrorist acts, and, where appropriate, to the families of those individuals. In the United Kingdom (Northern Ireland only), compensation was payable both for personal injury and for criminal damage to property arising from terrorist acts. In Spain, it was reported that there was compensation for victims of such criminal activities [terrorism] and that under a 1980 law the State would also indemnify third parties for harm and injuries sustained in the implementation, clarification or repression of the activities referred to in the law, including terrorism. Infringements of privacy by State agents, moreover, were also indemnifiable, "except in cases of force majeure". In Sweden, measures had had to be taken by the Swedish police to protect political refugees from possible reprisals by agents of their own countries. In Cyprus, while no fund had been specifically established, "in the case of acts of terrorism - when the perpetrator is not known, the State steps in to give aid to the victims". In Denmark, a compensation programme for victims of acts of terrorism had been established in 1978. In Portugal, the increasing occurrence of such crimes as terrorism had caused the Government to consider the need to establish State responsibility for compensating the victims, a matter currently before the Assembly of the Republic.

135. A second issue receiving increased attention is the protection of privacy. With the advent of the computer age, many legislators feel compelled to provide legal protection and recourse for persons whose privacy has been violated through computer crimes and criminal mishandling of personal data. In New Zealand, for example, the Human Rights Commission could inquire into any matter where the privacy of the individual was or might be unduly infringed. In Canada, concern about computer crime came not so much from the victims as from the police, consumer associations and consumer boards. Those associa-

tions were seeking redress through informal settlements and newly established legislation. In Norway, the Personal Register Act of 1978 required the permission of the Data Inspectorate to establish computer-based personal registries. Also in Norway, the entire field of computer crime was being discussed in the Norwegian Permanent Board on Criminal Legislation. The right to privacy was also a growing concern in the Federal Republic of Germany, where a new Law for Protecting Personal Data provided safeguards against computer crimes. For every case of severe damage resulting from infringement of the right of privacy, there must be compensation (Schmerzensgeld). The "Law for Protecting Personal Data" also contains safeguards against computer crimes. Compensation must be paid whenever there is severe damage inflicted through infringement of the right of privacy. Similarly, the Data Protection Act passed in the United Kingdom (Great Britain) in 1984 introduces new measures to safeguard personal data processed automatically. A wholly independent Registrar will maintain the public register containing details of the uses of computerized personal information and investigate individual complaints. Compensation must be paid whenever severe damage was inflicted through infringement of the right of privacy. Similarly, the Data Protection Act passed in Great Britain, i.e. England, Scotland and Wales, in 1984 introduced new measures to safeguard personal data processes automatically. A wholly independent Registrar would maintain the public register containing details of the uses of computerized personal information and investigate individual complaints. Individuals will be entitled to apply to the courts for restitution from data users if they suffer damage or any associated distress as a result of inaccurate data or because data have not been properly protected. In Portugal, unauthorized storage or use of personal information is prohibited under both article 35 of the Constitution and article 181 of the Penal Code.

136. Many private, non-profit and voluntary organizations were reported to have been established for the purpose of assuring the protection of consumers. These organizations dealt with such issues and problems as consumer safety and unfair commercial practices. In Poland, for example, the Consumer Federation, operating on a nation-wide scale, had as its objectives the creation of a social system for the protection of consumer interests, and the strengthening of the efficiency of legal protection for consumers. It attempted to meet those objectives through such activities as advocacy for consumers' demands and information and educational activities.

137. Several respondents described special facilities established to provide aid to drug abusers. In Bolivia, particular attention had been devoted to the provision of treatment facilities for minors who were drug addicts. Those centres operated in close co-operation with the police, who provided the necessary transportation for youths who had come to their attention. In Poland, under the Act for the Prevention of Drug Addiction, 1985, State agencies were obliged to provide free medical treatment for drug addicts and to facilitate housing, employment and material aid for them and their families.

138. The provision of assistance to victims of human rights violations was also mentioned by some respondents. In Portugal, the Association of Friendship to Political Prisoners sought to defend and assist political prisoners. In Chile, the Vicarage of the Catholic Church in Plaza de Armas, Santiago de Chile provided "organized help in the event of any violations of human rights". In Honduras, several organizations sought to protect the basic human rights of citizens and to provide assistance and support to families whose members had been victims of abuses of power, including the Honduras Commission for the Protection of Human Rights, the Organization of Family Victims of the Violations of Human Rights, and the Commission of Human Rights of the College of Lawyers. Finally, in Canada and Denmark, centres had been established at

Toronto and Copenhagen, under the auspices of the United Nations Fund for Victims of Torture, to assist the victims of torture.

L. Training

139. An examination of issues relating to victims must also concern itself with the adequacy of training for personnel having the primary responsibility both for dealing with victims and for ensuring that they receive adequate redress for the injuries or loss sustained as a result of their victimization. Only if officials are knowledgeable about victims' rights and the channels of recourse available to them can those rights be upheld and redress obtained. Equally important is an understanding by those officials and all others concerned of the impact of victimization and the psycho-social and "coping" needs of victims. The provision of guidelines for the personnel concerned is especially important in this connection.

1. Recipients of victim-oriented training

140. As can be seen from table 14, in 43 (64 per cent) of the responding countries the police receive training to make them sensitive to victims' needs, rights, and avenues of recourse and redress. Bearing it in mind that the police are the body to whom victimization is most often reported, the fact that over one third of the countries (36 per cent) provide no training for the police in victims' issues is cause for concern. Some countries suggested that the lack of police training was due, at least in part, to their current emphasis on apprehending the offender as opposed to righting the wrongs inflicted upon the victim. In that connection, the respondent from Turkey observed that training to facilitate reconciliation between victims and offenders was an urgent priority.

Table 14. Personnel who receive victim-oriented training

Type of personnel	Number of countries	Percentage
Police	43	64
Professional social workers	49	73
Professional health-care workers	41	61
Voluntary staff of community agencies	33	49
Judges or magistrates	29	43
Lawyers or paralegal staff	26	39
Other (e.g. academic faculty, other private or non-profit-making organizations)	4	6

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

141. Regarding judicial and other legal agents, in 29 countries (43 per cent), it was reported that judges received victim-related training and in fewer (39 per cent), that lawyers and paralegal staff received such training. It was frequently observed that, while those two groups were given a great deal of education and training in offenders' rights and channels of recourse open to them, there was little such training for victim-related issues.

142. The respondent from Mexico observed that, while judges and magistrates did receive some training, all court personnel should be made more sensitive to victims' needs. Gaps in the understanding of those needs by those involved in the judicial process suggested that there was a great possibility of secondary victimization of the victim. The respondent from the Federal Republic of Germany spoke for many when he stated: "I consider it to be most urgent that police officers and judges who normally get the most contact with the victims of crime are trained to treat victims correctly. By doing this it could at least partly prevent the victim from suffering additional damage." The respondent from Mexico similarly observed that training was essential, especially for the police, "in order to prevent the phenomenon of double-victimization".

143. In 41 (61 per cent) of the countries it was reported that professional health-care workers received victim-oriented training. Some of the comments suggested that while those persons were capable of providing quite adequately for the victims' physical needs, much remained to be done to make them more aware of the victims' psychosocial needs. Some countries suggested that even mental health workers must re-examine and improve their approach to dealing with victims in order to meet their psychological needs more adequately.

144. Professional social workers (73 per cent) were the group most frequently reported to receive victim-related training. However, because victimization was only rarely reported initially to social workers, they would only have the opportunity to use that training if others in contact with the victim were sufficiently aware of the option to inform the victim that this resource was available. Additionally, 49 per cent of the volunteer community agents received training in issues relating to victims.

2. Adequacy of victim-oriented training

145. The evaluations given in the replies of the adequacy of the training at present being imparted strongly and consistently reflect, both in content and in depth, the seriousness of the consideration given to this issue. Many respondents felt that the training received was not as advanced as it could be in the light of the current situation in victims' services in the respective countries. Others held that the kind of in-depth training that the gravity of the victims' situation warranted was not yet being provided. In Bangladesh, it was suggested that the training programme currently being given was not adequate. "In the context of [the] widening of the problem both domestically and internationally, training facilities need to be specialized and extended."

146. Respondents from both France and Poland emphasized the need for training to improve the knowledge of victims' rights and the provision of information to victims. The need for special training to deal with cases of sexual assault and other crimes posing particular problems was also emphasized.

147. Some respondents deplored the fact that the personnel dealing with victims received absolutely no training, while others observed that it was superficial. One reply stated that "in the practical training of lawyers and judges, the victims and related topics are absent". Many other respondents,

in answering the question of whether the present training provisions were adequate, simply indicated "no".

148. In a large number of countries, the replies showed that, while some training was indeed provided for some staff, it was not yet sufficient. One respondent suggested that "in the various fields of law, health and law enforcement programs, more scientific and effective training is needed". Another stressed the importance of training so that in criminal cases the needs of offenders would be balanced against the needs and rights of victims and society. A third respondent commented: "The training is classical and not basically oriented toward the rights and needs of the victim, but instead toward reestablishing the social order ...". The respondent from China stated: "In this respect we have done a lot, but we will need more improvement."

M. Research

149. While it was reported from a number of countries that extensive research had been conducted on victims, others indicated that little or not empirical studies had been undertaken to date. Research had concentrated largely on victims of conventional crime. Studies of victims of such offences as assault, rape, and robbery were reported by a number of countries, including New Zealand, Poland, Sweden, the United Kingdom and the United States. Research in Hungary and Poland had focused on the role of victims and the victims' behaviour; in Hungary, for instance, there had been a "Survey on the Role of Victims in Crime and on the Development of the Victims' Public Opinion". Surveys of the extent of victimization resulting from conventional crimes had been carried out in several countries, while assessments of compensation and restitution for victims had received attention from Denmark, France, Germany, Federal Republic of, Poland, Singapore, the United Kingdom and Yugoslavia. In some instances, the research had also served a practical purpose, as in France, where the Ministry of Justice had developed a Guidebook of Victims' Rights (1982).

150. In some countries, research in new and non-conventional areas had been conducted: several countries (for example Australia, Austria, Canada, Finland, New Zealand, Sweden and the United Kingdom) mentioned studies of domestic or family violence, such as child abuse and wife battering. New Zealand reported research on victims of "white collar" crime; Sweden reported special studies on the effect of economic crimes; the United Kingdom (Northern Ireland) indicated that the Fair Employment Agency had funded research into employment patterns to assess the extent of possible discriminatory practices; Colombia had conducted research in relation to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46, annex), and in Chile and Finland research on victimization in connection with drug addiction and alcoholism had been conducted. Studies focusing on particular sectors of society were also reported, for example the victimization of one of Finland's ethnic minorities, the Roma.

N. Major issues and parameters for action

1. Activities at the national level

151. The responses as a whole strongly emphasized the need for constructive action on behalf of victims. Many expressed concern at the fact that attention was primarily focused on offenders and not sufficiently on victims. The vital importance of increasing the victim's role in the penal process was widely stressed. It was noted by many that much of the attention in that area had been focused on aid to victims of conventional crime, and suggested that

there should be equal concern for victims of non-conventional crime. Respondents in several countries were particularly anxious to promote action on behalf of victims of terrorism, hijacking, corruption, drug trafficking, police brutality and organized crime. Some felt that non-conventional crimes needed conventional definitions in law so as to afford the victims of such acts the protection and services available to others. With regard to victims of abuses of power, some respondents thought that mechanisms were already in place for action on their behalf, but that the means were needed to empower victims to avail themselves of them. The respondent from Australia, for example, commented: "Laws of standing should be reformed to permit class actions. Freedom of information legislation should be enacted in states which have no such policies and it should be strengthened in those states where it currently exists. Laws of defamation should be relaxed to permit free expression by press and public." Many respondents noted that victims tended to be poor and powerless; they required the resources of mediating agencies, such as ombudsmen, to deal effectively with public and private bureaucracies. Establishment of the office of ombudsman was emphasized by some respondents as being especially important for victims of abuses of economic and political power. Another aspect of the question was the need for efforts to be directed at preventing victimization, through such mechanisms as education, public campaigns and sensitization at the political level.

(a) Police action

152. Nearly two thirds (41 countries) of the respondents felt that the training provided to police was not adequate to make them sensitive to victims' needs. A little more than half (35 countries) felt that there could be an improvement in the provision of information to victims (especially on the progress of cases), and about one third (28 countries) commented that special procedures for victims were needed or under-used. It was pointed out in one reply that "often the police do not even know the victim's rights because these rights have not been well spelled out".

(b) Court procedures

153. The findings regarding court procedures are generally comparable to those concerning police and law enforcement practices. Slightly more than half (35 countries) of the respondents were concerned about the lack of an adequate role for victims in court: "Victims should be accorded a more meaningful role in criminal proceedings" (Uganda). Respondents in almost half of the countries (33) thought that there was inadequate provision of information to victims regarding their rights and entitlements or their role in the justice process.

(c) Restitution

154. With regard to restitution, respondents in about half of the countries (34) felt that it was insufficiently used as a criminal sentence imposed on offenders. As the respondent from Somalia observed, "I believe it deserves first consideration in our sentencing to require restitution for any damage done to victims". In a reply from Uganda, the review of current legal provisions and customary law practices was called for, "to examine the extent to which elements from different contexts can be merged", while in the reply from Nigeria it was urged that traditional methods of restitution should be revived and encouraged. In more than a third of the cases (25 countries), respondents were concerned because restitution orders were often not complied with by offenders. It was felt that when that was the case, or when the offender could not be found, the State should assume responsibility and provide compen-

sation. As for obtaining resitution through civil suits, a respondent from the United Kingdom commented: "The cost of bringing civil proceedings is a deterrent factor aggravated by the commonly found inability of the offender to pay. [This] is not a suitable means for dealing with certain types of cases, for example domestic violence." Provision for actions to be brought by groups of victims was also deemed to be deserving of consideration, as well as the hearing of civil cases in connection with criminal proceedings.

(d) Compensation

155. In many countries where compensation was not currently provided for any types of victims, respondents urged that such funds should be set up. In others, where compensation was available, it was felt that the existence of such programmes should be better publicized. It was noted in the replies from 23 countries that compensation was not available for any types of victims, and in 21 replies that compensation was not available for certain important types of victims (for example, secondary victims, such as family members of victims, victims of property crimes and victims not having suffered the minimum level of injury for which compensation is awarded). In about one quarter of the countries (16), it was felt that the level of compensation awards for victims was too low. One important problem mentioned was the paucity of funds for such programmes in some countries.

(e) Health and social services

156. Respondents from nearly two thirds of the countries (41) felt that the level of funding for health and social services for victims was inadequate. In 33 countries, the greater use of volunteers and the encouragement of community-based assistance was called for. The respondent from Ethiopia advocated the "constant encouragement of effective participation by the higher various mass organizations of the country". The lack of appropriate training in nearly half of the responding countries was noted. It was observed that in some countries the first priority was to introduce special health and social services for victims, as they did not currently exist. In others, where specialized services were available for specific categories of victims, respondents recommended the establishment of comprehensive national schemes to prevent inefficient fragmentation of the efforts made to assist victims. Co-ordination of agencies working in the field was of priority concern to many.

(f) Protection of victims of abuse of economic and public power

157. Respondents in more than half of the countries (34) felt that there were insufficient or inadequate avenues for recourse and means of redress for abuses of economic power, while respondents in nearly half of the countries (30) felt that there were insufficient or inadequate avenues of recourse and means of redress for the illegal abuse of public power. Some respondents decried the lack of organizations in their countries that would defend the rights of victims against official abuses of power. It was recommended in the reply from Italy that there should be a possibility for environmental groups to enjoy a standing as a party in the judicial process in cases of environmental pollution and despoilment; the respondent from Argentina felt that it was particularly important to publicize the occurrence of such offences as environmental pollution, as well as their noxious effects. Prevention, especially of environmental pollution, was also a major concern. One recommendation made was that companies handling toxic products or pollutants should be required to have insurance against possible mishaps. A respondent from the United Kingdom remarked: "Elimination of any continuing threat is generally more important than compensation ... Administrative agencies with obvious power and commit-

ment, backed by legislative provisions, but employing negotiatory-conciliatory techniques rather than adversarial-legal ones, would be a most effective brake [on the abuse of power]." Similar comments were expressed by respondents from India and the Central African Republic, who felt that the abuse of power was best countered by a strong and independent court system. Further suggestions were made in a reply from Israel: "Independent, non-governmental agencies should be established, supported for example by Trade Unions, to seek remedies on behalf of the public in cases such as fraud, environmental pollution, and so on." Respondents from many countries recommended the development and improvement of action and resource allocation on behalf of victims of economic abuses.

(g) Specific legislation in respect of victims' rights and interests

158. While it was indicated that in 28 countries (42 per cent) the concern for victims had been incorporated into explicit policies for victims at the national, state, or local level, and that in 35 countries (52 per cent), victims' rights and interests had been given formal legislative expression (for example in the establishment of compensation programmes), respondents across the board felt that much remained to be done. As the respondent from Ethiopia remarked: "The need for legislation in this regard and the need for a concrete outcome has started to be felt, as the general consciousness of the people has been considerably awakened". Many respondents echoed the sentiment expressed in the reply from Yugoslavia which simply stated: "A priority task is the adoption of a Victims' Bill of Rights." Similarly, a respondent from Canada observed:

"At the moment, the balance leans very much on the offender's scale. The victim has no rights, only a tiny part of the justice budget is allocated to the victim and almost all professionals are trained to defend the offender's rights. We need equivalent rights for victims (e.g., right to legal counsel, right to be informed, right to be present and heard at proceedings, right to have a say in plea-bargaining, right to know their aggressor's identity in juvenile cases, and so on). It also seems that we should spend equivalent amounts of money, energy and talent in rehabilitating victims that we do in rehabilitating offenders. Redress should be the first objective of justice, not punishment."

(h) Priorities for research on victims

159. There were many recommendations for research on victims. Surveys of the extent of victimization were frequently recommended, as were studies of special classes of victims (including victims of conventional and non-conventional crimes and of abuses of power). Research on victimization arising from non-conventional offences and abuses of power was called for by a large number of respondents. In Botswana, attention to the problem of deaths in the work-place was recommended, while trafficking in women was an area of concern in Bangladesh. Many others stressed the urgent need for research on abuses of power by government officials, involving bribery, corruption, and human rights violations, such as torture, arbitrary detention and executions. In the reply from Mexico a plea was made for research on "victims of white-collar crime and some forms of macro-victimization (principally abuses of economic power)", a view echoed in the reply from Italy. The following priority areas were highlighted in a reply from France: "victims of economic or financial violations, protection of consumers, offences against privacy by computer network systems, and protection of creative rights and intellectual property (inventions, software etc.)". The respondent from Kenya felt that reducing the "dark figure" of crime through increased reporting of victimization was a task to be pursued,

while in Spain and Argentina it was felt that victims of abuses in the penal system should be the focus of research efforts.

160. The identification of factors facilitating the recovery of victims from the traumatizing event was often singled out as deserving attention, as was the prevention of victimization. It was recommended in the reply of the Council of Europe that "it is particularly advisable to study the needs, reactions and problems of particular categories of victims (victims of personal violence, victims of theft, victims of rape, victims of economic crime etc). At present, generalizations impede a serious and systematic study of the victim's problems." In particular, victims' expectations of the criminal justice system were felt to deserve detailed examination.

161. Evaluation of the impact of restitution and compensation programmes was also suggested, as was evaluation of the effectiveness of different types of social services and counselling techniques for victims. While recognizing the importance of generalized inquiries concerning victims, respondents from Indonesia and the Sudan cautioned that such research needed to be sensitive to the unique historical and cultural context of particular countries and regions. Echoing that sentiment, a reply from Uganda drew attention to the need for research into customary law practices.

2. Activities at the international level

(a) Regional and intercountry activities

162. Table 15 lists some collaborative schemes recommended by respondents for the promotion of regional and intercountry action on the behalf of victims. The collaborative scheme most frequently reported to be in existence was "treaties for extradition of fugitive offenders" (45 per cent). It was observed in one reply that co-operation between the Scandinavian countries had led to early legislation on the extradition of fugitive offenders. Most other suggested schemes had been implemented by less than one fifth of the respondent countries. As to initiatives that respondents felt should be more widely taken, regional training seminars were mentioned most often (55 per cent), followed by regional conferences (51 per cent), development of model legislation (49 per cent), co-operation in the seizure of offender's assets (42 per cent), and regional human rights courts (36 per cent). In respect of legislation, the European Convention on the Compensation of Victims of Violent Crime (1983) was felt to be an exemplary achievement. A respondent from Finland recommended regional conferences on victims' issues, noting the achievements of the Scandinavian countries in this regard. The emphasis on regional seminars and conferences in the replies suggests that information-sharing is a prime need in the development of effective action on behalf of victims. As the respondent from Ethiopia commented: "Indeed, special expertise in [victim studies] could help contribute a great deal in the cross-fertilization of ideas, techniques and necessary assistance. [This] could help in providing models or programs and training of technical personnel in the field."

3. United Nations activities

163. Nearly three quarters of the respondents called for the development of international agreements and conventions, and for the convening of seminars, workshops and conferences. Two thirds requested technical and other assistance from the United Nations, and called for the training of personnel, for direct assistance to Governments, and for action-oriented research. Other suggestions included the development of model laws, the creation of fact-finding commissions and provisions for appeals to United Nations bodies.

Facilitation of information-sharing and cross-fertilization of knowledge was also frequently called for. According to a respondent from Ethiopia: "There must be means by which Member States of the United Nations can keep abreast of the information and relevant publications and developments." Similar sentiments were expressed by respondents from Indonesia, Portugal, the Sudan and the Federal Republic of Germany.

Table 15. Recommended regional and inter-country collaborative activities on behalf of victims

Recommended activities	Countries indicating specific activity has been implemented		Countries indicating specific activity could be implemented	
	Number	Percentage	Number	Percentage
Regional training seminars	9	13	37	55
Regional seminars or conferences	13	20	34	51
Development of model legislation	8	12	33	49
Regional human rights courts	9	13	24	36
Treaties for extradition of fugitive offenders	30	45	18	27
Co-operation in seizure of offender's assets	8	12	28	42
Other (e.g. exchanges of experts and experiences)	7	10	7	10

Source: See table 2.

Note: Percentages do not add up to 100, as more than one reply was allowed.

164. Overall, countries seem to look to the United Nations to stimulate effective measures on behalf of victims. A respondent in Nigeria recommended direct United Nations action: "The United Nations should solicit funds from voluntary donors to propagate the cause of victims by setting up as many branches as possible in countries where less concern for victims is shown. Compensation to victims could be paid where other funds are not available."

165. A respondent from Barbados suggested that "the United Nations should designate a particular year as 'Year of Victims of Crime', so that world-wide attention could be drawn to this area of concern". Many replies urged the adoption of a set of principles or guidelines, preferably in the form of a declaration, as a statement of desiderata to aid in promoting effective action

on behalf of victims at the various levels. As one respondent commented: "International public opinion can be considerably enlisted by a decision of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to pass a 'Declaration on Justice and Assistance for Victims' and present it to the General Assembly of the United Nations for endorsement."

166. Many respondents commented on the need to mobilize greater public support for victims, through education at all levels and utilization of the media "to convey the plight of victims and effect empathy for and identification with them". One respondent strongly emphasized the need to change attitudes towards victims, for example those "blaming the victim". It was often suggested that there should be greater public education concerning the needs of victims, and that the United Nations should act as knowledge broker in that effort, helping to organize conferences, workshops and seminars. The input of intergovernmental and non-governmental efforts and broadly based public support for the efforts undertaken was similarly urged in a number of replies. The importance of a concerted and integrated approach, using all the modalities for action, was stressed by respondents who called for intensified efforts in that entire field.

II. SUMMARY AND CONCLUSIONS

167. This report, based on data from 70 countries, has traced the situation of victims of crime and the means of redress and assistance available to them across a broad spectrum of countries in the different geographical regions. Although the overall systems and specific mechanisms of assistance vary in scope, orientation and level of development, regardless of the current level of functioning, the consensus of the responding countries was that much remained to be done in that field, particularly in regard to new and special forms of victimization, such as those arising from non-conventional crimes and abuses of public and economic power. Indeed, it was often true that, as a country increased its efforts on behalf of victims, there was also an increasing recognition of yet further areas where corrective action was necessary.

168. Training and information-sharing were viewed by respondents as being of critical importance. Information was seen as essential to those who dealt with victims, as well as to the victims themselves and to the general public. Aspects singled out for priority attention also included the provision of appropriate training to help meet the needs of crime victims, dissemination of knowledge on where to obtain assistance for victims, and its improvement, progress in advancing the rights, entitlements and avenues of redress of such victims, and implementation of public awareness campaigns to raise consciousness of the victims plight.

169. Additional research was also seen as a priority. Many countries felt that much more information was needed about both the victims and the methods for assisting them. A commonly held view was that until information regarding the status of various types of victims and the effectiveness of different service programmes was made available, victims' assistance strategies would fall short of meeting victims' needs and bringing about the necessary change.

170. Increased advocacy for victims was also recommended, particularly in making entire systems more aware of and responsive to victim needs. Seen as central to this effort were endeavours such as the formulation of public policy declarations (both national and international), enhancement of the

systems and techniques already in place, and development of new ones, increase in funding for victims' programmes and services, and provision of adequate resources and roles for victims in advocacy and self-help activities.

171. On a broader scale, co-operative regional and intercountry activities providing training opportunities and the development of model legislation were recommended. Collaborative policy-oriented research and information exchanges were suggested. United Nations action was called for to facilitate the development of international guidelines, agreements and conventions, provide technical assistance, and prepare model laws. Countries clearly wished to make further progress in the entire field and looked towards the United Nations for leadership and help.

172. Overall, the response to this questionnaire is impressive. The task required the investment of considerable thought, a review of national policies, and the preparation of a summary of facts and impressions regarding a topic that is both wide-ranging and complex. The responses show an appreciation of the plight of victims of crime and of abuses of power, as well as a realistic appraisal of current victims' programmes and policies, they also contain valuable suggestions for the future initiatives in this field. Their synthesis provides an empirical base for future directions to be followed in victim-related work. It offers a starting point for subsequent assessments of this kind and, it is hoped, a springboard for action.

173. The interest and investment manifested by the respondents to this survey is an indicator in itself of the growing awareness, sensitivity and increased intelligence regarding victims issues around the world. As is evident throughout the report, there are many policy and programmatic developments that are on the threshold of realization. Perhaps central to this growing momentum is the recognition of a basic, universal commonality of human reactions and compelling needs, which arise as an inevitable consequence of victimization. The response nationally and internationally must take due account of these reactions and seek to meet the needs. It must also strive to reduce the extent of and suffering caused by victimization and, ultimately, aim at prevention, as far as this can be done.

Note

1/ See Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, Venezuela, 25 August-5 September 1980: Report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

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