

**Project Title:**  
**Support to South Africa's Victim Empowerment Programme (VEP)**

**Project Number:**  
**XAMT15**

**REQUEST FOR APPLICATION FOR TECHNICAL SERVICES**  
**to Assess the Feasibility of Launching an Advocacy Initiative**  
**for Passing a Victim Empowerment Legislation Act**

**May 2009**

## TERMS OF REFERENCE FOR SERVICE PROVIDERS

### TO CONDUCT RESEARCH INTO THE FEASIBILITY OF CREATING LEGISLATION FOR VICTIM EMPOWERMENT IN SOUTH AFRICA

#### 1. BACKGROUND

The Government of South Africa's Victim Empowerment Programme (VEP) aims to address the high rates of criminal victimization, in South Africa. Victim Empowerment was identified as one of the Governments' priority programmes in the 1996 National Crime Prevention Strategy (NCPS). According to the NCPS, the main purpose of the VEP is to facilitate the establishment and integration of interdepartmental/inter-sectoral programmes and policies for the support, protection and empowerment of victims of crime and violence. In order to support the VEP, the European Union has funded a three-year Victim Empowerment *Project* in support of the overall Programme, to be implemented by the United Nations Office on Drugs and Crime. The overall project objective has thus been defined as follows: *"The Victim Empowerment Programme has contributed to building safe and peaceful communities, strengthening a human rights culture and provides more effective, multi-sectoral, coordinated responses to victims of crime and trauma, particularly children.* The project is funded by the European Union and implemented by United Nations Office on Drugs and Crime [UNODC] in partnership with the Department of Social Development [DSD]. Both the DSD VEP program and the UNODC VEP project have provincial coordinators mandated to implement the project across the nine provinces.

In his State of the Nation Address, 2007, the then President of South Africa, H.E. Thabo Mbeki noted that the abuse of women and children continues at an unacceptable level. Gender based violence, especially threats directed at women and children, such as sexual and domestic violence, remains a serious concern in South Africa. A South African study shows that one woman is killed by her intimate partner every six hours. This amounts to one of the highest intimate homicide rates that have been reported anywhere in the world.<sup>1</sup> The country also continues to experience one of the highest overall crime rates in the world, particularly rape. Every year, over 50,000 (more than 54,000 cases in year 2005) rapes are reported to the police, making the country's rate of sexual violence also one of the highest in the world.<sup>2</sup> The actual picture, however, is much worse given that gender-based crimes as recorded by the police reflect only a small percentage of the actual incidence of sexual victimization. A South African study of survivors of gender-based abuse shows that just under a third of the women (30%) had been to the police despite the fact that 89% felt that what was done to them was a crime.<sup>3</sup> Violence against women, in particular rape, constitutes one of the most underreported types of crime. Nevertheless, the recorded number of cases of rape reported to the police in South Africa increased by 21.6% between 1994 and 2005. Last, but not least, young men aged 18 – 32 years of age are most vulnerable to victimization, and similarly represent the gender category and age group that in comparison produces most perpetrators. Crime prevention strategies must consider those gender and age groups particularly prone to contribute to tomorrow's generation of perpetrators of crime.

#### 2. PURPOSE AND SPECIFIC OUTCOMES OF THE VE PROJECT

The specific purpose of the UNODC program of assistance is to contribute to the process of turning the victim empowerment policy documents into concrete action benefiting victims of crime and thereby contributing to the building of safe and peaceful communities. The specific programme purpose has been defined as follows:

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<sup>1</sup> Shanaaz Mathews, Naeemah Abrahams, Lorna J. Martin, Lisa Vetten, Lize van der Merwe and Rachel Jewkes, *A National Study of Female Homicide in South Africa*, MRC Policy Brief No.5, June 2004.

<sup>2</sup> South Africa shows the highest rate of rape of all countries that participated in the Eighth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, covering the period 2001-2002, <http://www.unodc.org/pdf/crime/eighthsurvey/8pc.pdf>

<sup>3</sup> Sandra Bollen, Lillian Artz, Lisa Vetten and Antoinette Louw, *Violence Against Women in Metropolitan South Africa, A Study on Impact and Service*, Monograph No 41, September 1999.

*“To improve the implementation of victim empowerment policies in South Africa by building capacity, improving coordination and strengthening relations between the government and civil society organizations (CSO’s) and thereby improving services to victims, especially women and vulnerable children”.*

A total of five outcomes, associated outputs and performance indicators have been identified:

- Outcome 1: Implementation plans for VEP policies developed, VE policies and implementation plans disseminated and mass awareness on VE policy created by the end of the project.
- Outcome 2: Improved coordination between victim empowerment government departments both vertically and horizontally and with CSOs.
- Outcome 3: The capacity of government staff to implement policies and comply with minimum standards in all relevant Government departments is strengthened.
- Outcome 4: The capacity of the National and Provincial Departments of Social Development and Victim Empowerment Coordinators of other government agencies to manage, coordinate and lead the governments VEP is strengthened.
- Outcome 5: Improving the capacity of CSO’s in delivering services to victims of crime.

### **3. PURPOSE OF THE VICTIM EMPOWERMENT LEGISLATIVE RESEARCH AND ADVOCACY INITIATIVE**

The selected Service Provider(s) (*hereinafter* SP) will study as well as consult with sector stakeholders and Treasury about the feasibility of developing and passing a Victims Empowerment Legislative Act. The SP will assess current cost-benefit propositions of services to victims of crime, and – if deemed feasible – propose a strategy for mobilizing support of government and parliamentary stakeholders to adopt such an Act.

One of the major problems encountered by the different governmental departments working on VE is that victims-related provisions may be found in a range of different legislations and/or draft legislations. At the moment, there is not a single, specific piece of legislation targeting and addressing specifically the needs of victims of crime; nor does therefore exist a single or explicit line budget for implementation of victim-related services; not to mention an effective mechanism for coordination.

A feasibility study must

1. base itself on the findings of an ‘expert discussion forum’ to be organized and facilitated by the SP, which would provide the social space for consultations, inputs of expert stakeholders, as well as retrieval of information relevant for the overall service mandate.
2. acknowledge the benefits of provision of victims-of-crime services; and a pragmatic assessment of the overall need for services to victims of crime. This requires a discussion what type of victims ought to be served; whether there is or ought to be a ‘hierarchy’ of victims / victimization / offences; and if so, who defines such a ‘victims hierarchy’?; how?; and based on what criteria?
3. a feasibility study must furthermore include (yet should not be limited to) a thorough review of the ‘Victimology in South Africa’ literature documenting initiatives in support of Victims Empowerment Legislative Acts in the past (such as – for example – recent studies conducted by the South African Law Reform Commission); as well as a review of the academic and popular literature on how service providers are failing to uphold the rights of victims. In addition, a sample of services guided by policy or legislation should be assessed by (1) determining what legislative and policy mechanisms are in place; (2) whether and how services provided do indeed reflect legislative and policy mechanisms; and (3) whether and how services provided do indeed give effect to the legislation and policy. In other words: since there is no legislation governing victims services – such as, for example, shelter services – who is ultimately liable if the services provided are of poor quality and detrimental to the well-being or health of the victim?
4. The study must also assess the resources currently attributed to implementation of victim empowerment policy and/or incidental services delivered to victims of crime. This in turn requires a scan of services delivered by NGOs and CBOs through donor-funding not related to government budgets. The overall

purpose of this assessment will be to determine the need for streamlining victim empowerment legislation.

5. The feasibility study must furthermore address the issue of governance, by exploring structures that ought to be put in place and which would be responsible for the certification, de-certification, accreditation and de-accreditation, registration and de-registration of VE services and service providers. Here, again, a consultative approach with sector stakeholders will be required. The feasibility assessment sought from the SP must include an international comparison of victim legislation and office structures that exist internationally. It must also shed light as to the extent to which victim legislation and office structures are effective or not; and explore options for governance that must not necessarily be aligned to current governance arrangements.

The outcome expected from the SP is therefore multifaceted! The SP must – in consideration of the above paragraphs (#1 to #5) – propose a ‘roadmap’ for the Government of South Africa on how to get the legislation needed to support VEP policy passed (should this indeed become the recommendation of the study); **or** articulate why such an effort cannot be considered to be feasible. Should the SP testify to the feasibility of advocating for a legislative act, a persuasive strategy as to how to secure VE-supportive legislation must subsequently be proposed. Such a proposal must include recommendations for funding streams for implementation of such legislation; and how the sustainability of such a legislation can be guaranteed.

#### 4. “REQUEST FOR APPLICATIONS” [RFA] GUIDELINES

Interested SPs are requested to submit a project outline that contributes to the development of a strategy for assessing the feasibility to advocate for a Victim Empowerment legislative act (and possibly the mobilization of government stakeholders and the general public to pass VE legislation). The SPs are requested to submit their proposal no later than *14 July 2009 at 12:00 hours* (either hand-carried, or through mail dispatch), to the following address:

United Nations Office on Drugs and Crime  
Victims Empowerment Project  
Expert, Capacity Development  
P. O. Box 12673  
Schoemann Str. 1059  
Hatfield, Pretoria  
0028

Interested SPs must propose a “research delivery product” (consisting of a tentative research strategy, data analysis, findings and conclusions) about the feasibility to develop and adopt a Victims Empowerment legislative act. The evaluation of the proposal will be based to the extent to which bidding service providers address or match up with the technical components, the proposal’s structural requirements (listed below), and the parameters of competence of the technical experts (presented further below). As far as the structural components of the proposal delivery are concerned, it is expected that the bidder *outlines research and data collection / analysis strategies* for:

1. **Providing baseline information on existing ‘victims-of-crime’ legislative provisions.** Illustrate your approach you plan to use for identifying gaps in – as well as shortcomings of – existing legislative frameworks; for identifying problems pertinent to current legislative and policy divisions; for proposing strategies for the development of an argument about the “why’s” or “why-not’s” of the need of a specific, dedicated ‘Victims of Crime’ legislation (including a specific focus what kind of impact the lack of a single-piece legislation has on the provisions of effective victims protection and assistance). Propose formats to be used for illustrating how fragmentation and gaps weaken effective assistance and protection of victims of crime; for outlining possible consequences and shortfalls of not developing such legislation. This must include an assessment of resourcing and of the potential impact of such legislation on budgets, resources and appropriate capacity to deliver services.

2. **Identifying and analysing potential factors and elements that would favor and facilitate the development and adoption of a dedicated ‘Victims of Crime’ legislation.** This must include in particular an articulation of obligatory *sustainable, high quality* VE service provisions to be carried out by the Government of South Africa in the case that a VE legislation shall be passed; as well as cost implications for delivering such services.
3. **Identifying and analysing potential obstacles** that could prevent the development or adoption of a “Victims of Crime” legislative act.
4. **Determining key obstacles** that must be overcome in getting a Victims of Crime Legislation passed.
5. **Proposing a tentative strategy on how earlier-identified obstacles can be overcome.** This strategy must include
  - a. Identification of stakeholders inside the Government, the Parliament and civil society organizations, capable and committed to participate in consultation processes on the development of Victim Empowerment laws.
  - b. Mobilization of political will and support among government and parliamentary stakeholders to lobby for the development and funding of Victims of Crime legislation.
  - c. Awareness raising to achieve a critical level of understanding about why intervention for victims is important, and about the significance of Victims of Crime legislation, with the assistance of mass media and civil society organizations.
6. **Provide a Project Logframe** (outcomes and outputs; as well as indicators of success, means of verification, assumptions).
7. **Propose a research roll-out plan (and include subsequent Gantt Chart)** that demonstrates how the consultant / team-of-consultants proposes to organise for the generation of data needed in preparation of a research report.
8. **Present a Project Budget** (please detail budget lines, unit description, cost per unit(s), number of unit(s); etc.)
9. **Propose a Reporting Strategy**
10. **Present a Visibility Strategy** (ensuring visibility of DSD, UNODC and the EU in all research undertakings)
11. **Define Risks/Issues**
12. **Explain / justify why you / your team of experts / your organization is best suited** to conduct the above-requested project workplan.
13. Please include in **Appendix** CVs of project manager and lead experts/consultants. The CVs must provide evidence of consulting in the area of VEP, policy and legislation (for more detail see below, Section 5: Required Expertise of the Service Provider).

## 5 REQUIRED EXPERTISE OF THE SERVICE PROVIDER

It is mandatory that the Service Provider consists of experts with demonstrable experience in South Africa’s consultative law; familiar with methods to conduct a VE Legislation feasibility analysis; familiar with the treasury system of SA; experienced with legislative processes; familiar, comfortable and conscious of the challenge to work across governmental departments for mobilizing trans-departmental political will and support for the idea of VE legislation; also familiar with advocacy work through media and Civil Society Organizations; aware of advocacy methods suitable for bringing the significance of a VE legislation to the conscience of South African parliamentarians.

The consultant(s) engaged to execute the above-mentioned consultancy should demonstrate the following qualifications and characteristics:

- Relevant educational qualifications;
- Relevant quantitative and qualitative research skills;
- Overall knowledge on VE policies, strategies and measures
- Track record of legislative and legal consulting for government institutions
- Professional expertise and experience in the area of VEP policy and legislation;
- Knowledge of government policies and instruments for VEP implementation
- Knowledge of participatory methodologies;
- Advocacy and mobilization skills;
- Ability to effectively communicate;
- Gender, cultural balance, sensitivity, and language skills;
- A high standard of professionalism,
- Ability to work independently and with team.