

VICTIMS' – LEGAL RIGHT TO COMPENSATION

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The word "victims" means persons who individually or collectively have suffered harm including physical or mental, emotional suffering, economic loss or substantial impairment of the fundamental rights through acts of omissions or commissions that are in violation of criminal laws operative including those laws proscribing criminal abuse of power. The General Assembly of the United Nations in its 96th Plenary Meeting held on 29th November, 1985 made a declaration of basic principles of justice for victims of crime and abuse of power, recognising that millions of people throughout the world suffer harm as a result of crime and the abuse of power and that the rights of these victims have not been adequately recognised and also that frequently their families, witnesses and other who aid them are unjustly subjected to loss, damage or injury. The Assembly affirmed the necessity of adopting national and international methods in order to secure universal and effective recognition of and respect for, the rights of victims of crimes and abuse of power. The Assembly also adopted the declaration of basic principles of justice for victims of crime and abuse of power. It was also declared that offenders or third parties responsible for their behaviour should where appropriate make fair restitution to victims, their families or dependants. Subsequently the General Assembly emphasised that when compensation is not fully available from the offenders or other sources, the State should endeavour to provide financial compensation to the victims, their families and in particular dependents of persons who have died or become physically or mentally incapacitated as a result of such victimization. In this context, it was also stressed that an establishment strengthening the expansion of National Fund for compensation to the victims should be encouraged. Now coming to the victims of the abuse of power, it is noted that though they are not the victims of violation of criminal laws yet they belong to the category who have suffered harm including mental or physical injury, economic loss or impairment of their fundamental rights through acts of omissions and commissions of those wielding power resulting in violation of recognised norms relating to human rights. The Assembly felt that the State should consider incorporating into the National law norms prescribing abuse of power and providing remedy to victims of such abuse by way of restitution or ordering compensation and other incidental supports. The concept underlying is that the State or the Community should restore the victims or their dependents as far as possible to their former conditions through compensation and neighbourly support.

