

REVIEW OF A PROTECTIVE APPROACH TO THE VICTIM IN THE CODE OF CRIMINAL PROCEDURE

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ABSTRACT

Protective victimology, while studying the position of the victim in the criminal procedure, considers him/her worthy of protection, regarding protection of him/her as depending upon fair treatment to achieve justice in accordance with international criteria. The solid and worthwhile foundations of this new notion, along with the necessity and realism of its dimensions, resulted in the *Plan On Protecting Victims of Crimes* to be introduced in international documents and conventions in a very short time. The impact of protective victimology on the criminal justice system has been directed at reducing crime, as this impact can be expanded in identifying and prioritizing the basic needs of victims, providing guidelines and adopting practical policies to protect victims. Accordingly, the objective of this study was to investigate the protective approach to the victim in the Code of Criminal Procedure. The present study was of a fundamental and theoretical research with its data being qualitative in nature; in other words, it could not be statistically analyzed, rather the data were gathered through library studies and taking notes, and finally the necessary conclusions were provided. The results indicated the Iranian legislator had in recent decades underscored the importance and position of the victim both from an etiological point of view and in terms of victimization and of their rights to a variety of protections in line with human rights standards and regional and international conventions. The legislator, while recognizing the victim in developing criminal policies, has made his best to protect the victim in all stages of the trial and procedure.

Keywords: Victimology, Victim Advocacy, Criminal Procedure

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INTRODUCTION

The subject of victim protection has today become one of the objectives of the Criminal Justice System. This led to the issue of victim protection and attention to their rights to be considered one of the duties of the judicial system in all proceeding stages. The need to compensate the victim, one of the points included in the teachings of the School of Restorative Justice, becomes more critical in criminal proceedings in terms of intensity, importance and extent of crimes. A review of the position of the victim in the Iranian criminal proceedings process suggests that the legislator has envisaged the criteria for the protection of the victim in the mentioned eras, while embracing the principles safeguarding the rights of the victim under different stages of proceedings. Given the existing situation, a desired model is to develop an inclusive criminal policy to protect the victim (Ghazi, 2016: 41). Advocates of the victim's rights maintain that they must be protected and assisted. The government and civil entities should do their utmost efforts to provide assistance and services to them and meet their needs (Mir-Kamali, 2011: 150).

Today, with the advent of the science of victim protection, the forgotten position of the victim in the criminal process has been revived. This new branch of criminology, while studying the status of the victim of crime in the criminal process, protects the victim and considers them worthy of being protected. Using this knowledge, the legislator has taken effective strides to improve the rights of victims, providing for appropriate amendments in the Criminal Code to safeguard and protect the rights of victims. A careful and accurate study of these amendments on the one hand and explaining the role and position of the victim in the Code of Criminal Procedure on the other hand can be the origin of new developments in the Iranian Criminal Policy against the rights of victims (Mir-Kamali, 2011: 151). When one enters a proceeding process, he or she is indeed faced with an entire government system, so the way the government officials

treats these people, whether being accused, victimized or even witness, suggests the very attitude and the value the government assumes for those people in the society in terms of human rights laws, because human rights laws and dignity-oriented standards by governments prohibit them from any sort of treatment that will tarnish their character as a respectable entity, while at the same time considering sanctions for penalties to be imposed on them. Article 8 of the Universal Declaration of Human Rights, adopted in 1948, stipulates: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law". As well, the Declaration and other international laws have mentioned other important principles, including: investigation of charges made against the accused in the earnest, the right of the victim to compensation of the damages from false complaints, expression of the charges, presence of a lawyer in the preliminary proceeding stage, conduct of preliminary proceedings by trained officers, non-violation of the dignity of the victim and of the accused, prohibition of torture in the confession debate (Article 14 of the Human Rights Committee, Clause 2, Article 2 of the American Convention on Human Rights and the Statute of the International Criminal Court), and prohibition of arrest or of arbitrary detention (African Commission on Human Rights, Article 9 of the Universal Declaration of Human Rights), all of which are in accordance with international and human rights conventions.

In the new Code of Criminal Procedure, there is an abundance of signs of the fair and just trial principles, characterizing the modern Criminal Law. This law addresses some important principles such as legality of the proceeding, recourse to the Principle of Innocence (Article 11 of the Universal Declaration of Human Rights, European Convention, Statute of the International Criminal Court, Article 9 of the International Covenant on Civil and Political Rights, Article 18 of the

Declaration of Islamic Human Rights and French Declaration of Human Rights), the principle of peoples' notification of the rights contained in this law (Article 5 of the European Convention on Human Rights), the principle of the right to defense (Clause 1 of Article 67 of the Statute of the International Criminal Court), the accused's right to have a lawyer, the principle of complying with the narrow interpretation of the criminal law in favor of the accused, the right of the accused to remain silent (the Statute of the Court), the principle of observing a reasonable and rational respite for appeal, the principle of appeal against verdicts issued by judicial tribunals, and the principle of complying with citizenship rights, etc. as they are deemed critical based on the provisions of most International laws and documents to further a fair and just trial.

In recent years, the importance of protecting the victim's rights in criminology issues has manifested itself in such cases as revealing crimes and obtaining crime rates in the society; the reason for this is that some crimes have never been revealed or prosecuted because of victims' failure to complain. Today, attention to victims and their needs at various national and international levels is not only underscored politically, but is also considered from a criminological point of view (Batiari, 2013: 310). Accordingly, this study aimed at reviewing a protection approach to the victim in the Code of Criminal Procedure. The present study was of a fundamental and theoretical research with its data being qualitative in nature; in other words, it could not be statistically analyzed, rather the data were gathered through library studies and taking notes, and finally the necessary conclusions were provided.

THEORETICAL RESEARCH FOUNDATIONS

Protecting the victim in the 2013 Code of Criminal Procedure

1. Direct protection

In the Iranian Criminal Code of Procedures and in various regulations, the victim's appointment of a lawyer is optional and the victim can have access to a lawyer from the very beginning to the end of the criminal proceeding. There is no limitation as to the number of lawyers in any of the criminal procedures and the victim can have access to a lawyer all the time. That the lawyer needs to accompany the victim in the criminal process is one of the issues not to be ignored in protecting the victim.

Also, when there is no need to file a lawsuit, the judge is vested to return the property from the crime. Given the existing situation, the legislator is better to set such protection inclusively, and to establish a unified procedure to return the property and objects in order that the victims of some crimes are not required to follow some formalities while being allowed to access to their property. On the other hand, that the victim is allowed to file a private lawsuit amid a public lawsuit is an affair embraced by the legislator, with any victim being able to be a private plaintiff. As a result, the victim can claim damages from the crime during the criminal proceedings. Securing a claim is one of the instruments available to the victim as s/he can claim the losses. A warranty of securing a claim can be viewed as one of the protective mechanisms that the legislator has provided for to help the victim secure and facilitate the damages.

In cases where criminal prosecution is possible following the plaintiff's suit, an investigation of the latter may lead to the discovery of the truth and a proper understanding of the way the crime occurred. Because the protection of the victim is founded on the principle of the victim's participation in the justice process, the victim is required to be able to express his/her truths, views and concerns to participate in the progress of the case. As well, the witnesses and informants of the incident will also be summoned by the investigating authorities if needed. If they fail to show up, an arrest warrant will be issued. Such an action helps facilitate and expedite the investigation process, with the conceivable benefit for the victim being that they will have more access to the evidence proving the crime.

Another case related to victim protection is that the judicial authorities should investigate the charges leveled against the persons as soon as possible, and take appropriate measures with impartiality and full

independence, thus avoiding any actions that would disrupt or prolong the criminal procedures (Article 3 of the Code of Criminal Procedure); in the meantime, the victim and other relevant individuals should be aware of their rights in the proceeding stages with the mechanisms being provided to ensure these rights (Article 6 of the Code of Criminal Procedure).

2. Indirect protection

Greater and rapid access to the accused is considered legal protection of the victim as it helps remove confusion and expectation because of the absence of the accused; this suggests the value assumed for the position of the victim as a person contributing to the prosecution process (Article 179 of Code of Criminal Procedure); as well, search and inspection of houses, closed places, as well as search and inspection of objects in cases where, considering presence of evidence, there is a strong suspicion of the presence of the accused or of tools and evidence of crime to be discovered allows the investigator to conduct the investigation process and to contain his/her strong suspicion (Article 137 of the Code of Criminal Procedure). Whenever a local investigation or site inspection is necessary to find out the truth or to clarify a case, or the accused or plaintiff makes a request for doing so, the investigator shall perform an investigation of the site or locality (Article 123 of the Code of Criminal Procedure).

On the other hand, whenever the victim feels that the criminal justice system is working to revive his/her rights, that it is harsh on the accused in this way, and that it creates barriers to prevent an abuse of his/her rights so that the offender is always accessible, one can note that all of this assures the victim s/he will be fairly treated. This is while, the investigator, in case there is sufficient proof, issues one a security warrants as contained in the laws in order to access the accused and get him/her to be present timely, to prevent him/her from escaping or hiding, and to guarantee the victim's rights for remedies (Article 217 of the Code of Criminal Procedure).

Code of Criminal Procedure and its relation with victim protection

1. Material protection of the victim

As per Article 9 of the Islamic Penal Code, property seized as a result of a crime committed by a criminal must be returned to its owner, as this property is taken from the victim and falls in the hands of the offender having an effective control on him/her any time (Batiari, 2013: 310). In the Code of Criminal Procedure or the Islamic Penal Code, compensation for the victim has been envisaged as a basic and important condition for the criminal to take advantage of such institutions as parole, suspension of punishment, referral of the case to criminal mediation, mitigation or exemption from punishment. Also, the that we observe that remedy sometimes replaces punishment and sometimes serves as punishment indicates the importance of compensating the victim for material damage. It is clear that first of all, the criminal must be held responsible for compensating the victim because the injuries inflicted have arisen from her/his conducts. Inspired by criminology and victimology findings, most criminal systems are today seeking to envisage mechanisms for compensation by the criminal, with compensation arising from the crime, considered one of the main sanctions for crime (Pour-Ahmadi Laleh, 2003: 58).

In cases where it is not possible for the criminal to compensate the victim, government resources and funding can also be utilized as an alternative to compensation, in addition to using insurance loans and charitable funds (Batiari, 2013: 314).

Government-based compensation for victims is referred to as "Making a payment by the government to the victims or their families against the damages or losses caused by crime, where compensation by the offender or other financial resources is not made possible". Some criminologists and criminal scholars maintain that most crime commissions cannot be assumed to have arisen from the free will, rather its roots should be sought in socio-economic conditions and the micro and macro level policies. Accordingly, the government is required to recognize the outcomes of such criminal policies and the

failure of official institutions to control and prevent crimes. Based on this perspective, the government can provide for compensation mechanisms as it seeks to set up a social insurance system aimed at social welfare; these mechanisms are aimed at compensating for aggravated offenses resulting in social insecurity, social disorder and damage to the public prestige. Recognizing the "principle of government responsibility for offenses, the European Convention on the Compensation of Victims of Violent Crimes, states: "Governments are required to compensate the victims of the crime; because they have failed to prevent crime and not adopted an effective criminal policy" (Farajih and Baziar, 2011: 137).

One more material protection envisaged in article 601 of Code of Criminal Procedure states: "The plaintiff must pay for the criminal lawsuit when filing it. The private plaintiff who also claims compensation for the losses s/he has suffered must pay for the proceeding in accordance with laws related to civil affairs. If the plaintiff cannot afford to make the payment from filing a lawsuit, s/he shall be exempted from it at the discretion of the prosecutor or the judge". Also, as per note 1 of Article 602 of Code of Criminal Procedure: "If the judicial authority determines the plaintiff cannot afford to pay the sum, the payment will be made from the funding allocated to the Power of Judiciary".

2. Solatium¹ protection of the victim

When a criminal phenomenon occurs, the victim's relation with the criminal justice system begins. As the criminal process begins, the necessity to protect the victim during this process becomes clear, as this protection hinges on fair treatment to access to justice. The need for a desirable model of victim protection to be achieved is to recognize the victim during the criminal procedure. Attention to the higher human status of any victim of crime and respectfully treating of him/her, will encourage him/her to file a suit. By recognition, it is not meant that the police or the judicial authority consider their duties finished simply upon receiving a complaint or reporting a crime, rather it is meant that the competent authorities come to this conclusion that the victim of a crime needs to be assisted as a criminal incident has unfolded, with this attitude continuing from the beginning to the end of the criminal process (Ebrahimi, 2005: 292).

Also, the principle of the judge's impartiality is a guarantee for the health of the proceeding as it reveals people's right to access to a fair trial. The right to a fair trial refers to both parties to the case, i.e., the accused and the victim. Criminal proceedings must be established on the laws, guarantee the rights of the parties to the litigation, and enforce its rules against the persons prosecuted on equal terms for similar crimes they have committed (Article 2 of the Code of Criminal Procedure). At all stages of criminal proceedings, it is obligatory for judicial authorities, judicial officers and other people involved in the proceedings to observe citizenship rights as enshrined in the Law on Respecting Legitimate Freedoms and the Protection of Citizenship Rights (Article 7 of the Code of Criminal Procedure).

On the other hand, the victim must be informed of their rights. For the victim to be informed of their rights, articles have been envisaged in the Code of Criminal Procedure and mechanisms provided to increase the legal awareness in the society as a whole (i.e., potential victims).

A) The accused, the victim, the witness and other relevant persons must be informed of their rights in the trial process with mechanisms provided to safeguard those rights (Article 6 of the Code of Criminal Procedure).

B) Judicial officers are required to inform the plaintiff of the right to compensation and taking benefit of existing counseling services and other judicial assistance (Article 38 of the Code of Criminal Procedure). For the plaintiff to independently litigate free from any pressure and threats, it is necessary of him/her to enjoy physical and mental security. It is necessary to also provide such security for the plaintiff's family; this is because in case there is fear of life, and a sense of

financial and psychological insecurity, most people will prefer to withhold their litigation or, if they have filed litigation, they withhold it under threats and pressures. International documents emphasize the right to provide for the physical and mental security for all persons. As per Article 3 of the Universal Declaration of Human Rights, "Everyone has the right to life, liberty and security of person". The importance of woman police in protecting the victim is shown for some victims, including women and children. Recognizing the importance of such an issue, the legislator states in Article 42 of the Code of Criminal Procedure: "Investigation of women and persons who are fifteen years of age or younger shall be performed by trained female officers, and If this is not possible, women's case shall be handed over to the investigator for investigation and interrogation, and that of persons aged 15 or younger to the head of the court or his/her deputy". Police play an important role in reducing material and solatium injuries inflicted on women and children and protecting them. This protection can take the form of valuing the human rights and dignity of the victim, attention to the victim's concerns and sufferings, expressing sympathy with him/her, as well as identifying and arresting the offenders, properly conducting preliminary investigations and legally protecting their rights (Ghevam, 2010: 63). To cite an example of a psychological protection for the victims, one can refer to the care-giving bureaus in police departments (Mehdipour, 2009: 56). In the police departments, caregivers apply all their scientific and professional capacity to defend the sanctity of the family position and make their bests to provide guidelines to settle family disputes (Lopez, 1995: 17). Article 136 of the Code of Criminal Procedure reads in this area: "The investigator shall obtain the views of a forensic doctor, or, as the case may be, invite him/her for an examination into the injuries, signs and symptoms of beatings, physical injuries, mental shocks and other medical tests. If the forensic doctor fails to be present at the scene or if there is no forensic doctor, a specialist doctor will be invited". Article 486 of the Code of Criminal Procedure also reads: "The Power of Judiciary sets up an appropriate entity called social working entity in the jurisdiction of each city, in order to perform social workers' tasks" (Yousefi Maragheh, 2009: 140).

Certain victims and their rights

Vulnerable or certain victims are "persons who are permanently or temporarily incapable of protecting themselves from various physical, mental, emotional, economic, social and sexual abuses because of their specific individual characteristics and their exposure to some exceptional situations, thus needing to have special protective services and measures". Women victimization in some crimes is high due to the specific nature of such crimes. Sexual offenses include rape and domestic violence, particularly wife abuse, s they are clear examples of crimes against women. Women vulnerability, contributing to their victimization, lays the ground for them to special protections. These protection services are characterized by psychological and emotional assistance because of the special nature of crimes against women.

Also, in the Criminal Law On Children and Adolescents, children and adolescents are considered to be complete human beings who are different from adults from physical, psychological and personality characteristics. This difference makes them more vulnerable than adults to deviation and delinquency. Individual vulnerability is one of the main classification criteria in victimology. In one of these classifications, victimized children and adolescents are separated from victimized adults based on the pathological criterion of age. The outcome of such a perspective was a change of attitudes in how to deal with juvenile delinquency as it led to the emergence of a new branch in criminal policy called Differential Criminal Policy On Children and Adolescents (Raijian Asli, 2006:4-5).

Also, a number of scholars, especially sociologists, psychologists, psychiatrists and criminologists, have investigated the phenomenon of elderly harassment and the causes of elderly victimization as well as the ways to prevent it. Following these investigations, some regional and international entities, especially the Council of Europe and the

¹ solatium (Lat) : compensation allowed for injured feelings

United Nations have addressed this subject by holding several conferences and proposing recommendations (Spinellis and Pitsion, 1989: 313). The elderly, on the one hand, because they have major savings accounts, and on the other hand, because fear of some economic phenomena such as inflation reduces their purchasing power, are more vulnerable to exposure to insecurity and victimization (Miyazawa & Euller, 1999: 348).

Types of criminal policies on victim protection

Criminal policy refers to some repressive actions by which the government reacts against crime (Najafi Abrandabadi, 2005: 11). What the victims need first and foremost after the crime has happened is intervention by all those involved in the case and even members of the community to reduce and alleviate their physical and mental injuries. On the other hand, despite numerous shortcomings in the investigation and prosecution stage, the legislator has taken measures to protect victims, following international and regional documents to protect the victims in the stage mentioned, especially the 1985 Declaration and the Rome Statute. Trial-specific protections can offer great help to prevent repeat and secondary victimization. Protecting the victims during the trial takes on various forms including describing the victims' rights and gaining their trust, and using a mediation entity. One of the most important and necessary protections is the issue of compensation for the victims, especially in the material dimension, as it can be considered one of the most basic and effective protections to relieve their pain and suffering. Criminologists maintain that compensation of material and even solatium damage is one of the most important instruments by criminal justice system, which should be enforced as a compensatory way for the damages against the victim and also as a means to hold the offender accountable.

Protection of the victims' rights by judicial officers in the criminal proceedings

One of the important actions by judicial officers to reduce the damages caused by the crime and to protect the victim is to discover the crime. Also, if a witness or an informant is present at the crime scene, their full particulars must be obtained and inserted in the case. Detention of the accused under such circumstances is permissible when there is strong evidence that the accused has committed an evident crime.

Upon entering the crime scene, the judicial officers should search for the tools and means according to the type of crime and consider anything leading them to discover the crime. Accordingly, preserving the scene and inspecting the place and confiscating the crime tools are seen as measures to protect the victim. On the other hand, one of the key examples of protecting the victim and reducing the damages caused by the crime at this stage is the preliminary interrogation of the accused, conducted by judicial officers. Also, preventing the escape, hiding or collusion of the offender, mainly performed through the detention of the accused by judicial officers, is another example of protecting the victim.

Officers can detain or arrest the accused in evident crimes, but in non-evident crimes this must be done at the permission of the judicial authority. After the accused is arrested, it is critical for the officers to control and monitor the meetings the accused has to prevent the accused from being run away and to avoid the means, documents and evidence of the crime being destroyed. Enforcing judicial decisions by officers also has a major role in defending and protecting the victims' rights. Implementing judicial decisions is aimed at enforcing court's decisions. A correct and prompt implementation of these rulings plays a valuable role in protecting the victim.

Protection of the victims in the prosecution and investigation stage

Some problems may arise in the way of protecting the victim causing a proper recognition of the victim not to be achieved. These problems arise by policymakers' inattention to the victims while regulating a discrete and desirable criminal policy and developing protective

measures for the victims. In some cases, these problems embody at the level of legislative criminal policy and is sometimes seen at the level of judicial and executive criminal policy. For instance, if judicial or executive measures (with police on top of them) fail to consider a protective view of the victim during the criminal process and serve only within the framework of strict and rigid legal rules without using the powers granted to them by the laws, it will not be possible to offer assistance to the victims (Raijian Asli, 2002: 125). In cases where the victim has experienced a severe victimization or faced a high degree of victimization and vulnerability, s/he needs to be well-served as all individuals and those involved in governmental and non-governmental entities that are nationally and internationally affected by the crime must heed this. If these individuals and organizations refuse to comply with this important affair, it is concluded that the victim's rights will be violated and their human dignity be tarnished, and through such treatment, the victim shall receive injuries (Elias, 1994:130). One of the most important victim's human-moral rights to be considered in the early stages of the criminal process is to provide for their safety and of their witnesses. The victim and his or her witnesses must have both physical and financial security at all stages. Providing security is one of the measures that alleviates the concerns of victims, thus protecting their identity and private life (Raijian Asli, 2006: 126).

Since the victim and the accused participate in various sessions to hear the cases during the investigation and trial proceedings, it is natural that the parties to the litigation face each other with the victim may be exposed to harms or injuries, or to be mentally and emotionally disturbed, resulting the participation in the session to be excruciating and unbearable for the victim. The same holds true of victims' witnesses. Of course, it should be stated that the accused and the witnesses may also face such situations. In order to prevent the victims, the accused and their witnesses to face each other, it is better to provide them with more welfare facilities. Preserving documents and evidence related to the victim's identity and their individual and familial characteristics and that of their relatives and witnesses and not disclosing their address or place of residence or work and that of those having close emotional and intimate contact with them are deemed some examples of protection that victims and witnesses can benefit.

In unforgivable crimes, i.e., Offenses irrespective of condition of the victim, although the victim, as an element of society, can demand that the criminal justice system prosecute a criminal event, and the public prosecutor is required to perform this duty on behalf of each and every individual in the society, attention to the victim in position of a plaintiff has a secondary aspect because the accused is tried for violating the privacy of the community and then for injuring the victim. However, in forgivable crimes, the victim is the one first being viewed as a plaintiff because the accused is prosecuted and tried for infringing the victim's privacy and as a result faces consequence. Thus, in forgivable crimes, the main position of the victim is introduced as the plaintiff. The Iranian legislator has always focused attention the victim's position, and even in unforgivable crimes, this position has been respected.

Following this train of thought, national and international forums have enacted special laws and regulations to protect vulnerable victims in order to expand criminal policies and to enforce justice for the victims based on their specific conditions. For example, some of the documents adopted by the United Nations in this regard can be cited as including: the 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (paragraphs 3 and 17), the United Nations Convention against Transnational Organized Crime (Articles 23, 24 and 25), the 2003 United Nations Convention against Corruption (Articles 25, 32 and 33), the 1998 Rome Statute of the International Criminal Court (Articles 53, 68 And 70), the 1989 Convention on the Rights of the Child, the 2006 Convention on the Rights of Persons with Disabilities, the 1979 International Convention on the Elimination of All Forms of Discrimination against Women, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the 1991 United Nations Principles for Older Persons.

Rights of the victim when issuing a sentence

The principles safeguarding the rights of the victim in the proceeding include the presence of a lawyer, the trial being public and the expedition of the trial. The lawyer's presence in all stages of criminal proceedings is one of the guarantees properly and appropriately executed in the framework of protecting the victims' rights. The said lawyer must be selected and enjoy sufficient expertise. In this regard, Article 346 of the Code of Criminal Procedure stipulates: "In all criminal matters, the parties to the suit can select and introduce their lawyer or lawyers". The publicity of the trial is one of the important means to guarantee criminal proceedings, as the judge considers his/her judgement to be viewed by people and is required to be as accurate as possible. It is also one of the ways to ensure judicial security. This principle is one of the constitutional principles because of its importance.

On the other hand, one of the important rules of a fair trial is to investigate the lawsuit at a reasonable time, which should be focused attention especially in the trial stage and in favor of the victims. When the verdict is issued, the necessary means for a quick trial are provided. The contents in Article 374 of the Code of Criminal Procedure are among the salient examples concerning the expediting of the process. Also, the Code of Criminal Procedure adopted in 2013 has outlined the general principles of a fair trial in the first chapter of this law and in Articles 2 to 7, while recognizing the victims' rights in other Articles (Ebrahimi and Raoufian Naeini, 2015: 21).

In forgivable offenses, the plaintiff may request that the prosecution be abandoned before an indictment is issued. In this case, the prosecutor will issue a warranty of prosecution abandonment. The plaintiff can ask for a re-prosecution of the accused only once for up to one year from the date the warranty of prosecution abandonment is issued (Article 79 of the Code of Criminal Procedure). The motive behind establishing such an entity is for a direct protection of the victim and the legislator seeks to create a legal and suitable opportunity for the victim in his/her thinking trend. Such a situation is a kind of leverage the victim can use to compensate for the losses caused by the crime, and if the accused withholds to pay compensation or has little willingness to seek compensation, s/he will hand over the request yet again.

Also, in all offenses, except for the ones with a so-called Divine Right, if the accused or his/her lawyer does not take part in any of the court hearings or fail to submit a defense bill, the court shall hand an absentee verdict after the investigation (Article 406 of the Code of Criminal proceedings), as it is deemed one of the rights of the victim in the process of issuing and executing the sentence. On the other hand, for the legislator to restore the relations between the offender and the victim in the new Code of Criminal Procedure, s/he has considered the issue of mediation and restorative justice; in the meantime, s/he has always considered for the first time the issue of mediation and compromise in Article 82 of this Code. As per Article 82 of the Code of Criminal Procedure, in criminal offenses of sixth, seventh and eighth degree whose punishment can be suspended, the judicial authority may, at the request of the accused or with the consent of the victim or private plaintiff, grants the offender a respite of maximum two months to seek forgiveness from the plaintiff or compensation for the crime. The judicial authority may also refer the case to the Reconciliation Council or a person or entity for mediation upon their consent for a settlement to be reached.

The court is also required by the victim to investigate a private lawsuit during the trial in order to expedite the victim's access to compensation mechanisms and to prevent the victim from sustaining higher costs. The plaintiff can claim remedy for all material and solatium damages as well as possible benefits from the crime (Article 14 of the Code of Criminal Procedure). The court is also required to hear statements and to investigate persons not previously summoned with the private plaintiff requesting investigation of the accused. The claim for damages by the victim, which is litigated in a criminal court as a result of a criminal case, involves a financial aspect. Hence, as stipulated by Article 559 of the Criminal Procedure, the private

plaintiff is required to pay for the trial, as envisaged by rules and regulations related to Civil Courts. In the meantime, the forgoing Article provides: "If the private plaintiff cannot afford to pay the costs and fails to pay for the proceeding, the court is allowed to temporarily exempt him/her from doing so.

Informing victims of the rights prescribed by laws have contained for them can be very much effective in restoring their social status and thus prevent them from being repeat victimization, as criminals often hunt prey having fewer consequences for them. For this reason, illiterate, incompetent and uninformed people are targeted by criminals more than others. On the other hand, criminal policy officials in any government should gain the trust of the victims with sensitivity and interest and seek to reduce the number of unreported victims.

One more right of the victim in the process of issuing and executing the sentence is the use of mediation units considering the discretion of the victim. In the Iranian Legislative Criminal Policy, the issue of encouragement towards compromise and reconciliation, which is regarded a kind of non-judicial mediation by the judge and the criminal justice system, has drawn the attention of the legislator. However, it should be borne in mind that the lack of organized mediation, while strengthening the way courts work, has undermined the amicable relations in the society, and led individuals to have alienated, thereby causing resentment towards each other.

Sometimes it is impossible to realize the rights of the victim through mediation, especially concerning major crimes where forgiveness by the victim cause threats for the rest. For this reason, it is inevitable to refer to judicial courts and to file a criminal or civil case. For this, it is imperative to pay attention to the rights and position of the victim while observing this position indicates the justice prevailing over the criminal system and the protection of the victims.

Decisions by the First Criminal Courts and the position of the victim in protesting these decisions

According to the 2013 Code of Criminal Procedure, criminal courts are divided into First Criminal Court, Second Criminal Court, Revolutionary Courts, Juvenile Courts, and Military Courts. According to Articles 301 and 302 of the forgoing law, the criminal court is competent to investigate all crimes, except for what is rested with another authority as per the law. Therefore, Article 302 specifies the competency of the criminal court in five paragraphs. The most important protections a criminal court has envisaged for a victim is the authorization Article 388 has given to the private plaintiff to submit all their objections such as reviewing the timing, competency, imperfect investigation and the need to consider other or new evidence, the insufficiency of the evidence as well as the rejecting of the investigator to the court office within ten days from the date of notification. If the accused is on the run or it is impossible to access him/her and for any other reason that prolongs the trial, the court shall issue an absentee decision in accordance pursuant to Article 394 of the Code of Criminal Procedure, so a note of announcement in this regard is deemed one of the protections. Finally, according to Articles 427 and 428, the private plaintiff can protest any decision issued by a criminal court, including conviction or acquittal, etc.

Criminal policy over compensation for victims

Today, one of the main important points of the criminal policy in most legal systems is the issue of compensating the victim in various ways. This is because in the new criminal policy, the legislator, as in the past, has not merely paid attention to the offender and the crime, rather has viewed the victim as one of the main subjects of crime. For this reason, compensating material and solatium damages is thought of the most essential objective of the criminal policy, with the legislator seeking to reform the offender. The legislator stated in this law that the least necessary protection to be made for the victim is the issue of compensation and remedy of material damages. Under different legal systems, the legislator has considered many resources for compensation, which are sometimes governmental and sometimes

civil resources. The mechanisms of compensation will be discussed in the new law.

If it is practically impossible for the offender to provide for the losses, we need to make alternative resources for it. In the insurance industry, the person inflicting the damages hopes to provide an immediate and definitive compensation by insuring the car as well as insuring property or body members and lives. Of course, insurance does not work on all damages, especially damages from intentional crimes. It is quite clear that a potential offender can only consider liability for his or her unintentional conducts. The most important alternative source to the offender to compensate the victims is the government. Inspired by the progressive teachings of Islam, examples of paying the atonement from the treasury seem to be extended to other cases while observing the criteria and the rules. This is while other alternative national resources, especially charities, can be of great help to compensate for the victim. Government compensation in case laws lacks a history and is not completely new, but it has embodied in the past laws and legal systems. The oldest law available to us now, involving government-based compensation, is the Law of Hammurabi, which dates back to the 17th century BC.

Another alternative source of compensation for the victims is charity funds. Most people suspect that the main goal of charities is to help the needy, while what is more important than providing financial help to the needy is to restore self-confidence, to believe in one's abilities, and to show that one can recognize his/her hidden talents by exploring the talents. Therefore, based on the expansion of conducts by charitable organizations, part of the material damages incurred by the victims can be provided.

Protection of certain victims in the stage of sentencing and enforcing verdicts

The offender, like any other human beings, is a rational and calculating person who usually decides to commit a criminal conduct through rational reasoning and weighing the benefits and losses, and to prohibit the offender from performing this conduct, the punishment must be aggravated. On this basis, the main reason of victimization and abuse against vulnerable victims is their specific conditions, which eliminate or reduce the possibility of their resistance to criminal and abusive behaviors. Therefore, it is required to increase the losses from committing such crimes against this group of victims. To meet such a desirable goal, a useful solution is to envisage in laws and policies a tactic called "aggravated qualities of punishment". For example, we need to aggravate the amount and type of punishment for these crimes against these victims. In general, providing for protective mechanisms of "protection criminalization" type suggests one of the basic principles of punishments, namely, "the principle of proportionality of crime with punishment". According to this principle, there must be a kind of proportion between the type of crime and its aggravation and the level of damage to the public interests as well as the consequences from the punishment.

Therefore, concerning the need to protect vulnerable victims, social and personal necessities and interests require that the punishment for the perpetrators of crimes against vulnerable persons be more severe and severe compared to other persons, otherwise it will cause a kind of injustice in the society and the criminal justice system. Regarding the importance of this issue, it is stated: "Criminal sanctions are considered as a means to reduce crimes rate and to reduce the risk of victimization from potential targets. Therefore, harsher sanctions involve less vulnerable targets, and because these sanctions are based on such factors as age, gender, position of some groups as more attractive targets for offenders, it is critical to turn to harsher sanctions"(Code of Procedure and Article 16).

In Iranian laws, paragraph c of Articles 206 and 271 of Iranian Code of Procedure as well as Article 3 of the Law on Combating Human Trafficking, approved in 2004, the last part of Article 621 Iranian Code of Procedure Adopted in 1996, Note 3 Clause (b) of Article 3 of the Law on the Punishment of Persons Acting in Unauthorized Audiovisual

Matters Adopted in 2007 all demonstrate the use of an intensified quality system of punishment to protect vulnerable victims.

CONCLUSION

Protecting victims or protective victimology is a new approach in the area of criminal science that, if injected into the criminal policy, it can be a model of a criminal system that revolves around the victim, in addition to the offender. A prominent feature of this new approach is the diversity of its building blocks in a criminal policy construct, which are manifested through developing protective strategies at three legislative, judicial and executive levels. Actualization of these strategies depends, more than any other thing, on the adoption of special laws and regulations. Fortunately, in this regard, the domestic and international community has not been spared in this matter, with conventions being ratified in the international arena, by which constructive interventions can be made:

Conventions such as the United Nations Convention on the Justice and Support for Victims and Victims of Abuse of Power, the Statute of the International Criminal Court, the United Nations Convention against Transnational Organized Crime (2000 Palermo Convention), the United Nations Convention against Torture Corruption (2003 Merida Convention) and the European Convention on the Compensation of Victims of Violent Crimes, which is a regional document in this regard. Influenced by movements on victim protection and their affiliates, the United Nations has adopted laws, judicial, governmental, and customary mechanisms to protect victims' rights, while requiring governments to comply with them. But in practice it has not been very successful.

Seeking to choose the best strategies to protect the victims and to implement and enforce these strategies, Iran has sought to provide an appropriate position for the victims and to protect them based on international criminal justice policies. The rules set by this authority are of particular importance as they enjoy strong support of the international Code of Procedure. Before the Code of Criminal Procedure was adopted in 1992, attention tended to towards the offender and the crime, whereas little attention was focused on the importance of the main actor, i.e., the person on whom the crime committed. Therefore, by studying the science in this regard, one can conclude that the victim of a crime cannot be excluded from the criminal proceedings. Thus, a triangular form was established in the Code of Criminal Procedure, i.e., crime, offender and victim, with the latter taking on two forms: One is to what extent the victim's conduct was effective in the occurrence of the crime? And what protections should be provided to him/her after the crime unfolded?

Before the Code of Criminal Procedure was passed in 2013, there were examples of this protection in the Substantive Laws, the Islamic Penal Code; however, there were objections to the legal entities involved in protective victimology which were sometimes legally or politically motivated. The judiciary, government officials, and the legal structure of the country finally came to the conclusion that in order to solve many legal, social, cultural, and even economic problems, they must embrace this role. Finally, in the execution phase, they have defended the victim in various ways.

An examination into these rules and regulations with a victimological approach not only determines the position of the victim in the international criminal justice system, but can also be viewed as a model of guidance by the regulator. Adding to the importance and position of the legislature, the role of the judiciary as a victim-oriented judicial strategy should not be ignored. In this connection, and in the international arena, the role of the International Criminal Court should not be overlooked, as this has been a very effective body in restoring the victims' lost rights in such cases as humanity, genocide, war crimes, etc. Nevertheless, it should not be forgotten that the implementation of all these efforts rely on systematic policies, and although useful instruments have been adopted in the international arena, there is a long way to go because of the insufficient implementation sanctions.

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