

Influence of Doctrines of Protective Victimology on Developments of Criminal Procedure Focusing on the International Documents

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Abstract

One of the approaches in the science of criminology and its subsets is protective victimology that has cleared a room for itself as an independent field of study in criminal sciences. Given the fact that this approach is rapidly internationalized following the process of globalization of this field of study, this work in the domain of the international policy making has turned to the focal point and basic concerns of the criminal policy. The goal of protective victimology is protection of those victims who not only had no role in the crime rather suffered sometimes irreparable damages. Although in numerous cases in Iranian criminal laws a special attention has been paid to the rights of the victims, these laws are faced with numerous challenges and deficiencies in relation to the protection of the special victims. The legislator by legislation of unsystematic laws has left in suspense the researchers of the criminal law in understanding the criminal policy of Iran in relation to the special victims.

Keywords: International Documents, Criminal Code of 2015, Victim, Protective Criminology, Legislative Innovations

INTRODUCTION

After the emergence of the protective victimology in twentieth century, the place of the victim was noticed and protected. Victim is studied from two perspectives: the role of the victim in the genesis of crime and victim as the man who has suffered a loss and deserves to be protected. First approach that was proposed in the early decades of the twentieth century, considers the victim as a factor involved in the genesis of the crime. In fact, with a negative perspective, this approach considers the victim to be guilty in occurrence of the crime. The researchers in this area in addition to the study of the personal and social features of the criminal, investigate the personal and social characteristics of the victim and consider the latter as an external factor that influences the criminal. The second approach is the secondary or protective victimology that is grounded in the idea that the victim should be protected in the criminal laws and the society should take the needs of the victim into account and give priority to protection of the victim. In international level the European Convention on the Compensation of Victims of the Violent Crimes (1983) and UN Declaration concerning the Fundamental Principles of Justice for the Victims of Crime and Abuse of Power (1985) were adopted.

In Iran like the Roman-Germanic legal systems, e.g. Germany and France, the role of the victim is active and prominent in

the beginning of the criminal prosecution. On the contrary, in common law systems like England, the role of victim in criminal prosecution is less colorful. The goal of the protective victimology with an approach to the vulnerable victims is promotion of the place of the victim in the system of criminal justice. The vulnerable victims deserve to enjoy special types of privileges and restorative and protective practices in proportion to the amount of the incapability and its type. The criminal law in mostly focused on the doctrines of criminology and criminal while it is the victim that needs and deserves to be helped.

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CONCEPTOLOGY:

Lexical Meaning of Victim:

Victim is used in Persian in the sense of guilt, revolt and error [1]. Victim, thus conceived, represents the one against whom a crime or sin has been committed.

Terminological Meaning of Victim:

Victim is used to refer to the person who has suffered a harassment, damage and loss. Victim in Latin literature has also been used in the sense of sacrifice in ancient civilizations and cultures. Nevertheless, victim does not merely connote the sufferings and agonies of the person who is being killed rather it was for the first time in nineteenth century that victim was used in a wider sense that covered the loss and damages beside death.

In the language of criminal sciences, if these agonies, hardships and damages are resulted from the criminal action of people, the person who has suffered the loss is called victim or the person against whom a crime is committed. The author of "Terminology of Law" defines "victim" as a term that refers to the person who has been the target of a crime [2]. Therefore, we can define the victim as follows: "The person who has suffered a loss from the crime or as a result of a decisive loss a damage has been done to his personal totality, e.g. his physical totality is breached, his spiritual and mental totality has suffered a damage, he has lost his property or a fundamental damage has been done to his rights. Thus, there is an urgent need for special types of protection particularly criminal protection".

Special Criminal Protection:

Protection connotes a wide range of notions including support, guarding and defending someone or something [3].

Protection in its general sense includes every action taken for guarding various types of rights that belong to the victim and also refers to the act of restitution of the lost rights. In this definition, rights refer to the financial rights, dignity, physical totality, right to life and the like. Criminal protection of the victim is divided into formal and essential protection.

• Differential Essential Criminal Protection:

Differential essential criminal protection includes protective criminalization. Protective criminalization takes the special pathological situation of the victim into account and consists of "a process through which the rulers prohibit the actions or the refusal of taking actions that result in the damages suffered by the victims according to their special pathological situation and determine performance bond for those who commit such actions or refuse to engage in certain required actions". Protective criminalization takes place in two forms. First, criminalization of the action or refusal of undertaking the actions that are committed in view of the special conditions of the vulnerable individuals. In Iranian laws, we can find some extensions of this type of particular

criminalization in scattered form. Articles 619, 713 and 633 of the Islamic Criminal Code and also the Law of Protection of Children and Juveniles adopted in 2002 are in this vein. The other type of protective criminalization consists of "refusal of reporting and declaration of crimes against the physical and spiritual totality of vulnerable people". Accordingly, whenever a citizen is informed of the occurrence of a crime against vulnerable people but refuses to report it to the judicial authorities his action is considered to be a type of crime and can be punished. This issue has been stipulated in the Article 6 of the Law of Protection of Children and Juveniles adopted in 2002.

Protective criminalization is also described as "punishment intensification" and it is defined as "prediction of factors involved in the intensification of the punishment and intensified qualities of punishment". Given the fact that the domain of protective criminalization has got expanded to a great extent, it can be implemented in two forms. Firstly, punishments can be intensified based on the type or scope of the crime through its ordinary method. Iranian criminal law is full of this type of intensification of punishment. First note of article 3 of the Law of Campaign against Human Trafficking adopted in 2004, paragraph C of the Article 206 of Islamic Criminal Code and the last part of the Article 621 of Islamic Criminal Code are among the examples of this type of punishment intensification. The other method of protective criminalization consists of "engagement of complementary performance bonds along with main punishments of the crimes against vulnerable persons". Articles 19 and 30 of Islamic Criminal Code adopted in 2013 are among this type of the intensification of the punishments which have been generally mentioned and defined, e.g. revoking business license, permanent or temporary shutdown of the institution and permanent or temporary suspension.

• (Formal) Differential Criminal Support:

In Iranian criminal law, the legislator in two ways has provided criminal support of the victims in formal and differential manner. In first way, there lies the legal and judicial support and this support is composed of a set of advantages in the course of criminal procedure including time of the discovery of crime and declaration of victimization until the time of execution of sentence and compensation of the losses of the victim. It is part of the rights of the victims that should be allocated to them. Providing the ground, conditions and structure required for the compensation of damage, establishment and creation of security for the victim, informing the victims of their rights and presentation of the views and concerns of the victims are among the most important judicial and legal supports in this field. Upon a cursory look at the Criminal Procedure Law, we can reach a short list of special support of the victims who are a child. One of the significant unforgivable crimes is child abuse the prosecution of which does not require any private plaintiff. The Law of Support of Children and Juveniles 2002 in its Article 5 and Law of Criminal Procedure in Article 70 have addressed this issue.

In Iranian Criminal Procedure, no special policy has been adopted as regards the protection of elderly but some exceptional cases, i.e. four occasions in which the legislator has spoken of the differential protection of the disabled: first, supports stipulated in the article 70 of the Criminal Procedure Law and can be summarized in the appointment of the temporary protector for the interdicted in order to handle the criminal prosecution affairs. The second occasion is the Article 136 of the aforementioned law. This is about the medical support of the disabled victims. Third occasion is the Article 201 of the aforementioned law. Fourth occasion is the Article 13 of the Comprehensive Law of Support of the disabled adopted in 2004 where the legislator stipulates: “National Welfare Organization is obligated to take proper measures for determination of a guardian for disabled people through creation of appropriate frameworks”. Note 1 of the aforementioned law implicitly suggesting that determination of representative for protection of the rights of the disabled people is among the tasks and authorities of the Welfare Organization that introduces the guardians to the judicial courts. Of course, there is also no systematic regulations in the domain of the special formal criminal protection of women and no specific law has been codified for support of the women whom general public consider as disabled and the legislator has just sufficed to the general rules and regulations in this field. Of course, in some cases in scattered form in the process of the criminal justice the legislator has predicted a framework for protection of the women’s rights. Among the most important ones of these measures and policies, we can refer to the following: taking advantage of the female consults in family courts (stipulated in the note 3 of the Single Article of the Law of allocation of some existing courts to the subject of the Article 21 of Constitution 1997) and protection of confidential issues and the identity of the female victims, but the law of the criminal procedure has not failed to pay sufficient attention to the witnesses and their protection and provided special formal supports of them that consist of hearing the witness in private court sessions in order prevent from the revelation of the identity of the witnesses, experts and private plaintiffs (under the Articles 206 and 453 of Criminal Procedure Law 2015), investigation of the witnesses by the judge without the presence of the convicts (Article 327 of Criminal Procedure Law 2015), presence of judge in the residence of the witnesses if these people are ill or disabled (Article 216 of Criminal Procedure Law 2015), payment of the costs of transportation or loss and damage claimed by the witness or the informant (Article 215 of Criminal Procedure Law 2015), issuance of temporary arrest warrant in those cases in which the freedom of the convict can put the life of the witnesses or their families in danger (Article 238 of Criminal Procedure Law 2015).

As previously mentioned, differential formal support has a second type which is referred to as meta-judicial support. This type of formal support has been defined as “nonlegal and nonjudicial supports that take place more in line with the legislative criminal policy and collaborative criminal policy after victimization”. Of course, this type of support should be

certainly associated with the criminal support and relevant protections. The extensions of meta-judicial supports in addition to medical supports include emotional, honor related, social and financial supports that are usually offered by the NGOs or civil institutions in protection of the victims and for prevention from the exacerbation of pains and prevention from the creation of the mental stress, e.g. creation of emergency medical centers, launching the medical and psychological consultation centers, creation of funds for compensation of damages and losses and creation of groups that are in charge of the support of victims ^[4].

Protective Vicimology and Criminal Policy:

Since early 1980s, intenrational efforts have been made for providing a new definition of the status of the victim. As a result, this intensive concentration on the victim, for example, the concept of “rediscovery of victim” has become reflected in the increase of the compensation of loss and international attention ^[5]. Victim is one of the basic principles of the criminal event that unfortunately has not found its real and effective place so far in the criminological studies and criminal policy of the societies. Following the emergence of the science of protective victimology in 20th century and the idea of the protection of the victims in the system of criminal justice the forgotten status of the victim has been highlighted again and it was in this point that the doctrines of the protective victimology concerning protection of the victims of crime were reflected in the form of the international laws and measures. Protective victimology in addition to the study of the role of the victim in the system of criminal justice has considered the victim support-worthy and claimed that the protection of such a victim based on international norms to be contingent upon the fair behavior in line with the access to justice.

Since the idea of protection of the victim has firm and valuable principles, its numerous aspects caused the theory of the support of the victims to clear a room for itself in international documents and conventions in a very short time. Among different human rights documents that reflect the norms of international system of human rights, there are significant documets in which we can search for the global measures of protection of victims focusing on the victims of power abuse. Meanwhile, Declaration of Fundamental Principles of Justice for Victims of Power Abuse (1985) and Fundamental Principles and Directions of Compensation and Restoration Right (2006) as two valuable documents within the framework of the policies of the United Nations can be undoubtedly considered as the international charter of the rights of victims. In fact, lack of confidence in nature and amount of the share of the victims in crimes has caused the relationship between the victimology and criminology to turn to a problem and concern. The key concern is that in dialectic of left realism the goal is promotion of the selective (determinative) rights of special victims. The underlying hypothesis is that some of the rights of the victim should be taken to be more important than the competitive rights or values in the society. For example, an Islamic feminist might

struggle to help a female victim to continue to get her medical care. Thus, she would seek to decriminalize the abortion or launch a campaign against the domestic violence and sexual harassment and make sincere efforts for their criminalization [6].

The second half of the Twentieth Century can be considered as the beginning of a vision of the prevention and rebirth in the domain of criminal policy. Contrary to the criminal law, an acceptable criminal policy does not merely focus on the criminal actions. Main features of such a policy consist of treatment and rehabilitation of the criminals, tackling the social problems, overcoming unjustified and unjust discriminations and uprooting the factors involved in the creation of the criminal actions. Appropriate criminal policy has a general meaning that makes use of many other sciences in order to fulfil its intended goals. On the other hand, thanks to the close relationships that it has with other institutions, it can implement its plans and predictions through these organizations [7]. The measures taken by the society for fighting against the crime is sometimes actional and some other times reactional. Actional measures represent those measures that are adopted before the occurrence of the crime and for prevention from the crime and are known as preventive measures. On the other hand, reactional measures are implemented after the occurrence of the crime. This type of responses is divided into two general groups: one is called punishment for the criminal who commits a crime while the other measure is adopted in support of the one who has suffered a loss and this can be called “Protective Reaction” [8].

Protective criminal policy is in fact the same governmental criminal policy which is revealed in the form of protection of the people involved in a criminal quarrel in its different dimensions (legislative, judicial and administrative). In some cases, the legislator, beside the governmental protection, takes advantage of the supports of the civil institutions and and in other words, a type of participatory criminal policy in order to provide the ground for people to have access to more effective criminal justice. Then, it is clear crystal that governments can make use of the public forces for criminal prosecution provided that there are legislative regulations or are already planned to be adopted in order to set the scene for better implementation of the supportive strategies in different ways [9].

RIGHTS OF VICTIM IN CRIMINAL PROCEDURE LAW

Victim's Right to Having His/Her Needs Met in the Course of Legal Procedure

Criminal sciences until recent decades had concentrated their studies on the criminal and convict. Accordingly, Iran's Criminal Procedure Law as one of the main domains of the criminal sciences in the course of criminal procedure paid more attention to the convict and his rights but didn't take the other factor involved in the occurrence of the crime to whom

we refer as the victim into consideration. Thus, global criminal justice systems made their efforts to highlight the measures of the just prosecution of the convict as the human rights measures. Just procedure as a result of these universal changes was defined as “the procedure through an independent court and without any dependence and of course in line with a legal criminal procedure based on the respect to the basic legal rights of the convict”. Just procedure has significant general headings and principles among which one can refer to the conditions of selection of judges and their features and characteristics (focusing on the principle of independence and impartiality), mechanism and makeup of courts (emphasizing on the public prosecution), typology of the procedure, court management and holding the trial sessions and its methods and also the facilities and tools that are required by the convict for defending himself (e.g. selection of the attorney). From the point of view of criminal justice, the right to just trial includes the legal acceptance for the convict (according to criminal procedure) or criminal (from the point of view of criminology) and also prediction of some guarantees for observation of those rights that often are present since the occurrence of the crime and the detention of the convict until the issuance of the decisive verdict and its execution of the convict [10].

The reason why in this era no attention was paid to the victim was that the countries and the rulers were against the convict and protected the rights of the victim in some way as if they had a sympathy with the victim. Therefore, there was no necessity for definition of a set of distinguished rights for the victim just like those of the convict. Nevertheless, since the middle of Twentieth Century in criminological studies the role of the victim became more colorful under the influence of activities of the civil right movements in 1970s and rights and needs of different groups of victims [11]. The character and different and exclusive features of the victim and more importantly the influence of his role in the creation of crime were all taken into account [12]. Meanwhile, proponents of women's rights insisted on the necessity of attention to and knowledge of the rights of victims [13]. They claimed that due to the excessive attention to the convict's rights, the rights of the other factor of the criminal event, i.e. victim, have been neglected. Following the expansion of the aforementioned movements, the protection of the victims and knowledge of the rights that they deserve to have were accelerated. To this end, various groups and institutions were officially established which the victims needs after the occurrence of crime.

Moreover, there is still another reality that was seriously noticed. This reality that the victims in addition to the pains they have suffered as a result of the crime, have to face further damages as a result of the inappropriate function of the staff of criminal justice system insofar as in some cases these calamities are more stable and intensive than the crime that has happened at first indeed. The victim who considers the judicial system a tool and way for official recognition of his rights if gets disappointed after referring to the criminal justice system he will have a negative perspective of it and

this will give rise to dissatisfaction. This type of victimization is referred to as the secondary victimization. In secondary victimization, all efforts are made in order not to let the victim to be disappointed after referring to the criminal justice system and fulfilment of the ultimate goal. Under the influence of the data of the criminological investigations and for prevention from its negative outcomes, in the course of time proper legal mechanism was defined for protection of the victim's rights and such notions as the fair and just behavior were revealed as the inalienable right of the victim. This legal mechanism, i.e. access to the fair behavior and criminal justice, was taken into account first in judicial procedure and later in the level of internal laws of the countries. For this reason, internal legal systems sought to depict and define the rights of the victim in a legal form insofar as in 1982 in USA a committee was established known as "President's Task Force on Victims of Crime". The task of this group was providing the necessary needs of the victims of the crime in the legal procedure of American judicial system.

Given the changes that have taken place in the internal laws of European countries, movement of protection of the victims particularly in the international level with further sensitivity paid serious attention to the rights of the victims and this led to the codification of international regulations in support of the victim. The adoption of "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: Report of the Secretary-General (E/AC: 1990). This declaration is known as the Magna Carta¹ or the comprehensive list of the protection of victims. These were effective steps in international domain for recognition of the rights of the victims. The aforementioned charter can be considered as the climax of international activity and efforts for support of the victims that caused an international approach to take form regarding the victims.

Psychological and Protective Management of Victims:

So far under the influence of the criminological doctrines particularly in line with the acquired results through clinical criminology that is one of the applied branches of the science of criminology, the main goal of criminal justice had been treatment and rehabilitation of the criminals in a form that only the formal observation of the support of the rights of the convict under the title of "just trial" was insisted. Observation of the rights of the victim and human and clinical-restorative behavior with him within the new conceptual framework has been discussed as "just or fair behavior". One of the effects of the fair behavior is the mental, emotional and physical restoration of the victim and saving him from the material and social poverty and treatment of mental and emotional pressures and deficiencies resulted from the experience of the crime.

To this end, in various countries including France and Germany, judicial authorities, police and also the civil society have established victim clinics that provide the needs, wishes and rights of the victim for free and observation of the confidentiality of the private life the victims^[14].

• Clinic of Victim and Victimization:

It is believed that there is an urgent need for establishment of a clinic for the victims along with the clinic of the criminals. In other words, we need to establish a clinic of victimology in addition to the clinic of criminology, i.e. prison, because in the clinic of victimology the previously mentioned formula prevails according to which crime is equal to the situation + criminal + victim.

Clinical criminology has two narrow and extended notions. Whenever the convict is studied for evaluation of the type of the dangerous state and arrangement of personality record for prevention from the crime and reform it is referred to as clinical criminology. Bringing the victim of crime back to the society is one of the major goals of the science of clinical victimology and it is supposed to provide the ground for rehabilitation of the victim. To this end, a personality record is prepared for the convict and in such crimes as rape by force, violence, harassment and etc., in which the victim undergoes through emotional, mental and physical pains and sufferings, this proves as an effective step. The punishment of the convict can be just a relief for part of the pains of the victim but this does not cure all pains of the convict. Therefore, the victims need more constructive and effective supports than the mere legal-judicial support.

Today victim clinics have been established for addressing the mental, physical and emotional needs. At the beginning the civil societies and nongovernmental organizations like the society for protection of sexually abused women and society of protection of the harassed children were established. The establishment of these societies is considered to be among the innovations of the civil society. These civil societies and institutions are founded by people who have been themselves a victim of these crimes in past and in this way they are trying to work as volunteers who are devoted to the treatment of the victims of the special crimes. Providing necessary consultations, they struggle to cure their pains and sufferings particularly in the emotional and mental aspect may in this way the victim finds a way to return to the conditions before the crime. With appropriate medical actions, the violence institutionalized in his mind will disappear. The activity of victim clinics is focused more on eradication of the fatal effects that are resulted from the crime and is invisible. Nevertheless, it is these pains that hurt the heart of the victim and turn them to unsocial or even antisocial individuals from mental and emotional points of view insofar as in future we would be faced with a revenger and criminal. Therefore, the most important goal of the clinical criminology and the clinics that are prepared for the victims is to return the

¹ First civil document of English Men that was signed in 1215.

emotional and mental state of the victim back to the conditions before the experience of the crime. It is in such a case that one can claim that the actions taken for prevention from the repetition of the victimization will be effective.

Support of Victim and NGOs

Given the fact that in the society there are other deprived and disabled groups like the poor, victims of the unpredictable events and sick people, the victims have to compete these people in order to attract their required aids from the society and government. Then, those groups that are devoted to the support of the victims should make their intention clear why their special request for protection of the victim must be met. The Convention 1983 of European Commission and its solutions adopted in 1989 and the Universal Declaration of 1985 identified and highlighted the improper conditions of the victims. International legal entities have included a similar list of the needs of the victims in their adopted bills among which one can refer to the material, mental, medical, and social aids through society and government for the victims, support of the victim in the course of the legal procedure and trial, permission of consideration of the ideas of the victims where their personal interests have been violated, respectful treatment of them, observation of human character and dignity of these victims, necessity of compensation of the damages incurred to the victims and their families and relatives by the criminals, possibility of having access to the information relevant to the case of the victims, possibility of having access to the ways that lead to justice and legal routes of the compensation of the damages and the use of unofficial dispute resolution methods like interference in those cases that there is an occasion.

In 1990 the Charter of Victims was released in the United Kingdom. In this charter the existing mechanisms and the supports conducted of the victims were defined and regulated with general vocabularies and in 1996 these regulations were updated. The aforementioned charter has covered many of the titles that exist in the international documents related to the support of the victim. Anyway, the greatest deficiency and limitation in this charter is that no performance bond has been predicted in it and no legal right has been allocated to the victims. The 1990 Charter has recognized the interests of the victims and prepared a strong tool for institutions that are involved in the protection of the victims so that in this way it can influence the parliament and its decisions in this regard. The strength of this charter just lies in providing the support for the victim based on the welfare. However, no right to claim has been allocated to the victim within the system of criminal justice.

Governmental Compensation of Victim's Damages:

The compensation of the damage and loss of the victims through governmental sources includes the costs that the government covers up in return of the damages and losses resulted from the crime when the criminal and other financial sources cannot afford them. Various types of physical,

financial, spiritual and mental damages are among the pains that the victims after the occurrence of the crime are faced with it. Compensation of the damages and losses incurred to the victims through financial mechanism can serve as a cure for the pains imposed on the victims. This is why the right of the compensation of the damage has been accepted as one of the most basic rights of the victim in most internal laws of the countries and international documents.

The important question is that who is supposed to cover the damages and losses resulted from the crime? It is clear crystal that in the first place and before all its responsibility should be imposed to the criminal because the damages incurred to the victim can be attributed to him and resulted from the actions of the criminal. Most of the criminal systems based on the criminological and victimological findings believe that the mechanisms of the compensation of the damages resulted from the crime by the criminal should be considered as one of the most important performance bonds of the committed crime though in all times and conditions and in practice the compensation of the damage and loss is not possible by the convict. Of course, sometimes due to the legal problems attribution of the criminal action to an individual or several known individuals is impossible, or in some cases the criminal is on run or hides and even he can remain unknown for a long time after the occurrence of the crime or the access to him would be impossible. In some occasions, though the convict is known or arrested, we see that due to the huge extent and amount of the loss and damages resulted from the crime the criminal is not financially capable of covering up these damages. Reference to an appropriate and effective center for payment and compensation of the loss and damage is necessary because imprisonment due to the failure of compensation of losses will not solve any problem rather it will just increase the population of the prisoners. On the other hand, negligence of compensation of the loss and damage of the victims and recommending them to wait and be patient will be unintelligible and illogical. This is why in those cases where there is no possibility for compensation of the damages of the victim by the criminal we may be able to take advantage of the governmental resources in addition to the use of the charities and insurance funds as a secure alternative for compensation.

In victim-centered international documents like European Convention on Compensation of Damages Done to the Victims of Violent Crimes adopted in 1983 and Basic Principles of Justice for Protection of Victims of Power Abuse in the Charter of United Nations adopted in 1985, the compensation of the damages of victims by the government has been underlined. Many countries such as Canada, France, England and some states of America have the possibility of compensation of the losses suffered by the victims through allocation of special parts of social work and suing the government or governmental institutions by the victim^[15].

Since the countries are in charge of the protection of the rights and interests of the citizens and social order, then the allocation

of necessary budget for providing the uncompensated damages of victims is among the actions that can be taken for protection of the peace in society and individual rights. To put it otherwise, by giving the responsibility of the compensation of damages to the governments the civil liability of the person who in some cases is not efficient in practice changes into social-civil responsibility and it is here that from the sources that government collects tax, it can compensate the damages that the citizens do to each other.

This issue has not been neglected by the sacred religion and in many cases the issue of compensation of the damages incurred to the victim or the blood money from the public treasury has been emphasized. In this way the criminal policy of Islam in the part of protection of the victim can be considered as the most developed judgments of the sacred religion of Islam. Muslim writers have cited numerous prophetic traditions and Quranic verses, e.g. “Muslim’s blood is not wasted for nothing”, in order to justify the payment of the blood money from the public treasury. This shows the place of the victim in Islamic culture. Of course, now there are certain alternative resources for compensation of the damages of victims among which one can refer to the charity funds and insurance. It is needless to say that compensation of the damages of the victims is among the clearest examples of the charity activities because it plays a key role in the resolution of the disputes and prevention from the imprisonment of individuals because of committing some crimes. The mandatory purchase of third-party liability insurance in many countries including Iran can be justified in this basis. Anyway, compensation of the damages and losses through alternative resources not only helps the criminals who are not able to restore the damages that they have done to the victims rather it also prevents from the destruction of the victim and his family.

Compensation of damages of victims by the government has been included in Iranian legal system in 1968 by adoption of the “Law of Mandatory Insurance of Civil Liability of the Owners of Land Vehicles before Third Parties”². The law of Islamic judgements, retaliation and blood money adopted in 1982 and some articles of the Islamic Criminal Code adopted in 2013 have recognized the payment of blood money from the public treasury within the framework of a traditional and jurisprudential discourse in a limited form. Moreover, in 2003 the law of punishment of crimes of military forces in some cases has considered the public treasury responsible for the compensation of the damages.

Support of Victims in International Documents:

The idea of support of the victims turned to a global phenomenon in the course of time and in regional, transnational and even international domain was discussed.

² It needs to be mentioned that this law has been thoroughly revised in 1999 in order to provide further support for the victims and the discussion of this lies outside the scope of current essay.

³ This article is in fact a type of objection to the bitter truth that in most societies, the victims who are indigenous or from a special racial background,

The charter of 1986 that was adopted in the seventh meeting of the general assembly of United Nations under the title of “Basic Principles of Justice for Victims of Power Abuse”. The aforementioned declaration is consisted of 21 articles and each part of this declaration opens new horizons within the framework of the support of the victims in global scale. This charter includes two parts “victims of power abuse” and “victims of crime”. The ratifiers of this declaration has discussed definition of victim and the easy access to legal action and trial and fair dealing with the victim, compensation of damages and other aids in the part devoted to the victims of crimes.

It is interesting to note that the recognition of the victim and observation of his legal and human status in Article 2 of the aforementioned declaration have not been considered to be conditional upon the prosecution, arrest or condemnation of the convict. In other words, even if the convict is not arrested or recognized, the victim will achieve his own rights and advantages as stipulated in the declaration. Article 3 of the Declaration can be considered one of the most important and pioneering articles of the Universal Declaration of 1985 because it considers the adopted regulations and supports to include all victims. This article suggests that these supports are applied without paying attention to any difference and advantage including the family or tribal status, age, race, gender, religion, language, beliefs, political approaches, national, property, cultural function, weakness and disabilities.³

The Declaration of 1985 not only provides a definition and explanation of the victim rather it offers solutions for protection of their rights and reminds the necessity of easy access to judicial centers and the sympathetic behavior of the official authorities (Article 4). In some occasions of this declaration the acceleration of protection of the rights of the victims (Article 5 and Article 6e) has been highlighted by the codifiers of the declaration.

The other key point that has been mentioned in the article 7 of the aforementioned declaration underlines the effective point that unofficial and nongovernmental solutions for dispute resolution like traditional and local meddling and pro-justice activities for facilitation of the ways of reaching an accord and compensation of the damages and losses of the victims should be used. This article uncovers the truth that in some cases victims are brought back to their early normal conditions and their rights are ensured more effectively via intercession and mutual understanding. Moreover, this method is not associated with the negative effect of the difficulties and problems of the formalities of the legal trial that are imposed to the victim by the convict. The restitution of the rights and compensation of the damages and losses of

or have specific religious beliefs and ideologies are treated differently by the police and judicial authorities as compared to the mainstream population and this reminds us the discriminative social reactions of the ancient times.

the victim have been taken into account in the aforementioned articles. The article 9 of this declaration asks the member states to heed the compensation of the damages and losses of the victim along with other guarantees in their legal procedures. Moreover, the article 12 of the same law has asked the governments that in those cases where the compensation of the damage and loss of the victim is not possible by the convict due to such reasons as escape or poverty of the convict or lack of alternative resources like insurances and charities, directly get involved and seek to compensate the damage in every possible way. In this part the strengthening and development of the national resources for compensation of the damages of the victim are encouraged (Article 13).

CONCLUSION AND SUGGESTIONS:

Today most of the laws of the criminal procedure in countries and also international declarations and documents are moving towards such notions as “just trial”. The measure for creation of a justice grounded legal procedure is decided based on the vision of the rulers and legislators. However, there are certain principles on which all legal systems are unanimous. Accordingly, adoption of some measures for protection of the convicts and victims can provide the ground for fulfilment of the goals of fair legal procedure. It needs to be mentioned that this thinking should not lead us to a positive approach as regards the distinction between the rights of the parties involved in the complaint rather there are certain limitations that ground the interpretations. For today nonrepressive and supportive actions constitute the center of the notions in criminology. The criminal justice system’s mobilization is at the hand of the ruling body and this is why the strategic policy of the judicial security requires the authorities to take advantage of a type of supportive criminal policy in their justice procedure both in judicial and legislative dimensions.

One of the aspects of the science of victimology in modern criminology is that some people are potential target of victimization and it is this essential potentiality that is involved in the process of their selection. To this end, we have chosen NGOs as a basis for protection and adoption of differential strategic policy for this class. Nonjudicial and professional institutions become involved in various stages of trial like discovery, prosecution, investigation, procedure and execution of verdict and the coordination of these institutions with the judicial institutions can have a significant place in criminal procedure in support of such vulnerable people.

The legislator in Criminal Procedure 2013 has included, defined and predicted many legal apparatuses that exist in the international and regional documents as regards the protection of victim though many other issues despite the fact that Islamic Republic of Iran has joined these conventions have not been introduced into the criminal procedure law and this can be considered as one of the existing deficiencies in criminal procedure law.

Our study of the place of protection of the victim in the criminal procedure law adopted in 2013 shows that the legislator has always sought to protect and support the victim and to this end, the legislator has recognized the foundations that guarantee the rights of the victim in all stages of procedure including prosecution, investigation, trial, issuance of verdict and its execution.

As to the support of special victims in the criminal process, one can state that protection of the victims requires to have a special and independent place in collection of strategic and theoretical views of criminal policy. Such a prediction should cover all necessary protections of the victims and by taking the predictions of the differential or special protections as to specific victims (disabled, children, elderly and women) into consideration, implement the victim-centered policy. Generally speaking, one needs to argue that Iranian laws and regulations as to the criminal support of the special victims do not have sufficient consistency as regards the criminal protection of the victims. Moreover, diverse and inconsistent laws that have been adopted concerning special victims imply that criminal legislator has unconsciously paid attention to victims. Furthermore, the legislator due to his negligence of the criminological data and as a result of incompatibility of criminal regulations with protective victimological doctrines has adopted discriminative laws as to special victims. Thus, lack of lawful and complete support in line with specific legislations and criminalizations and also due to failure of correct use of a special and thoughtful policy of these victims on behalf of the legislator all suggest that the legislator will be faced with a long winding path for necessary protection of the disabled. In those cases, where the vulnerable people have been victimized, unfortunately temporary and inconsistent encounters of the legislator with it is a witness to the claim that basically the legislator has not had a clear stance based on the victimological data as to the adoption of the supportive and differential approaches concerning special types of the vulnerable victims. A short review of Iranian criminal laws reveals the truth that in addition to the existence of numerous gaps in internal laws as regards the protection of the special victims, the legislator due to adoption of unsystematic laws as to the special victims (particularly the disabled, women, elderly) has failed the followers of the criminal law in understanding the desirable and appropriate criminal policy.

Our study of the international and regional declarations and conventions shows that there is an urgent need for the effective legal facilities in Iranian criminal laws both in formal and essential aspects. By reviewing the articles and regulations of the statute of international criminal court, we can understand that one of the most important goals of the Court is making the legal procedure fair. To this end, it simultaneously pays attention to the rights of the victim and the criminal. It is for this reason that one finds more innovations in the Rome Statute than other international documents among which we can refer to refusal of revelation of the identity of the victim, compensation of their damages, getting the victims engaged in the legal procedure. The

strength of the regulations stipulated in Rome Statute is that more than 160 countries have joined it and this number shows the effective significance of Rome Statute and provides the ground for implementation of the international criminal justice.

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