



Collective Compensation for Victims of Crimes

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ABSTRACT

Background

In this article, the concept of collective damages, types of collective damages, normative foundations of the joint damages system, and the foundations of the collective damages system have been studied. This study supports the victims and addresses their physical, mental, and psychological conditions to explain the compensation theory.

Materials and Methods

This research method is a descriptive-analytical one.

Ethical Considerations

Honesty and fidelity in writing the text have been observed.

Findings

The principle of absolute responsibility of the government is to fully compensate the victims in the context of harmlessness and justice, and social solidarity. Regarding the importance of compensation, many legal systems seek to compensate for the victim's damage due to the crime. The victim receives all the injuries, including material, spiritual and psychological, regardless of whether he is prosecuted. Irrespective of whether or not he can compensate for the damage done to the victim.

Conclusion

To fully compensate for the losses incurred, it is recommended that the legislative system formulate and approve comprehensive and complete laws and regulations so that the system of collective compensation of victims emerges and takes on an objective and practical effect.

Key words

Victim, Protection, Government, Compensation.

INTRODUCTION

No one should harm or harm to another person. Otherwise, he is obliged to compensate. The evolution of criminal law can be divided into three different and distinct periods: The first period is the period of criminality, this period is rooted in classical criminal law, whose primary concern is the offender's punishment. This is due to the severity and severity of the criminal act and regardless of the perpetrator's motive and the circumstances surrounding the crime's occurrence; the second period, called criminality, deals with the criminal law of the offender or offender.

At the same time, institutions such as parole, suspension of punishment, postponement of sentencing, etc., have been considered by the legislative system. Still, this change is mainly due to the development of criminology [1]. In the third period, which is the period of victimization, the idea was first created and matured that the direct victim of a crime that had previously been harmed, innocent, and deserving of protection could have socially functioned as well as treated Others inspire criminal thinking and cause crime [2]. The victim himself can be the cause of the crime or a functional element in crime development. However, modern thought has led to the fact that although the victim may have a partial or total contribution to the crime, they are now entitled to protection because of their damage.

The basic rule is that the offender is responsible for compensating the victim. Still, various causes and factors have caused this principle to

not apply in many cases, and the offender is in no way able to compensate all or part of the damages. If the victim is not a victim, sometimes the time interval between the crime and the offender's compensation is long. Simultaneously, actual damages to the victim require actual compensation [3]. And must inevitably seek another person or persons to do so. Undoubtedly, the government will have a significant share in this regard, considering its duties and also considering the many facilities and financial resources at its disposal [4].

MATERIALS AND METHODS

This research is a theoretical type; the research method is a descriptive-analytical one.

DISCUSSION

A. Compensation to Victims of Crime

The theory of government responsibility has a long history. Individuals or plaintiffs must turn to their respective governments to substantiate their claims and present them as a government complaint against another government [5]. Victims' compensation The crime under which the government compensates victims was first instituted in 1957 by Margery Free in Britain. Although efforts failed, compensation for the victims quickly became a significant issue across the UK. New Zealand passed the first law on damages in 1963, adopted by the United Kingdom in 1964. In the United States, California passed a resolution in 1965, New York in 1966, Hawaii in 1967, and Massachusetts in 1968. The federal government also legislated in 1984 [6].

B. Victims' Historical Role in Determining Justice

The criminal justice system has acted quite differently from the past to the present, with the victim playing a prominent role in today's criminal justice system. It can be argued that victims have historically played a more critical role in determining justice [7].

1- Compensation

The purpose of establishing a collective reparation system is to ensure that all damages to the victim are not compensated and that no damage remains unrepaired. One of the essential types of compensation, and at the same time, the most prominent kind of compensation for the victim, is the financial type. The financial firm is not only used to compensate for financial or economic losses. Still, it may also make sense in physical or mental injuries and even in emotional pain and suffering. In this case, it is necessary to provide financial support to the victim to repair and treat these injuries, just as the repair of emotional pain and suffering may be symbolic by determining the amount of money. The financial type is conceivable both at the legislative, judicial, and executive levels of formal or governmental criminal policy and at the level of participatory criminal procedure [8].

2- Compensation for physical injuries

The victim first goes to the doctor and asks him to repair the damage to his body as much as possible and return it to its original state [1]. In

the collective reparation system, victims of crime receive full medical support from the beginning of the victimization and are entitled to compensation for pain and bodily harm [9].

3- Psychotherapy

In France today, the psychological support of adult victims is provided in private psychotherapy centers. Some Victim Assistance Associations also guarantee the acceptance of victims by psychologists. In the United States, as in Canada, psychologists are regularly present at victim admissions centers to admit trauma victims and offer them psychotherapy. These psychologists are ready to accompany and assist permanent groups who are anxious and confused due to dealing with the victim in challenging situations [1].

C. What Is a System of Collective Reparations

Criminal justice systems in the past were completely different from modern systems so that today the victim plays a different role. It can be argued that victims have historically played a more critical role in determining justice [7]. The collective compensation system has been established to compensate all the physical, mental, and emotional injuries and pain inflicted on the victim as a direct victim and his relatives as an indirect victim according to principles and criteria. Compensation to crime victims is justified outside the court's criminal proceedings and by institutions other than the offender.

The mechanisms envisaged compensating the victims are manifested in three forms: Compensation, restoration, and restorative justice. The purpose of these mechanisms is to pay the victims outside the criminal justice system [10]. The principles of the mentioned system are as follows:

1- Government Duties

It is recommended that compensation be borne by the government, as the crime indicates the absence of a government that guarantees public order or that the victim is the victim of criminal society and the community must guarantee the results of these harmful situations. Compensation for casualties today is provided by the government through the Guarantee Fund and independently of the penal system and depends on a broad understanding of the concept of restoration [10]. If the offender does not provide the conditions for compensation of the victim, compensation will be proposed by the government. Accordingly, the basis for the victim's protection is the government's negligence. Without a doubt, one of the main goals of governments is to establish order and protect citizens' security, rights, freedoms, and lives. The government is accountable to its citizens, and one of the government's import duties and responsibilities is to provide protection. Suppose some citizens are harmed due to intentional or unintentional negligence of the government. In that case, the government must replace the offending citizen and compensate them because Ensuring security is one of the government's duties and national sovereignty characteristics [11]. Government

compensation for victims is "the payment of money by the government for damages resulting from the crime if this payment is not possible by the offender or other financial sources" [12].

Government compensation for damages refers to compensation by the political power and the governing body, not the government in its specific sense, i.e., the executive branch [13].

2- Social justice and solidarity

The main idea of collective or group compensation of victims lies in social solidarity; that is, the victim should not be left alone. Only one of the victims' pain is compensated by the offender's punishment, but there is another pain. Here, civil society helps to compensate, and whenever this establishment becomes legal, the government will ask citizens to help repair the victims of crime. At the beginning of the text of the European Convention on the Compensation of Victims of Violent Crimes [14], the two principles of justice and social solidarity are mentioned to establish compensation for the victims of violent crimes and their relatives.

3- Protection Model Policy

In 1970, criminologists discovered victims as a forgotten part of the criminal justice system and took protective measures that led to the victim entering the criminal justice process. Until recently, the theory of justice was applied only in the realm of restorative justice. With measures and arrangements, the victim has perpetuated justice rather than by the offender's

punishment or offender [15]. The victim's criminal policy depends primarily on identifying the victim and then on the provision of specific rights for him within the framework of multiple models of protection that the government should include as one of the aspects of social policy in its legislative-executive legislative orientations. Also have cooperation and partnership with civil society [8]. In victimology, support, which is the ideological reading of victimology, regardless of whether the victim is involved in the crime, is harmed, and society must support him. The community must help the victims of crime because irrespective of the role that a person has in committing a crime, he loses his ability in the battered places, and his dependents must also be supported. Here, scientific and etiological victimology that focuses on the victim's personality is distinguished from supportive victimology, supporting dependents [8].

4- Compensation by the Government

According to the basic rule, the offender is responsible for compensating the victim, but several factors such as the perpetrator's anonymity, insufficient evidence to prove the crime, escape, suicide, and death of the offender cause the victim to be injured. On the other hand, the many benefits and materials available in compensating the victim include preventing the victim from taking revenge on the offender, preventing re-victimization, and returning quickly and safely to the pre-victim state, which has led to the role of the government in this regard, from the

longitudinal replacement of the state with the first offender. As a result, today, the government's compensation principle has become one of the essential criminal policy tools in some countries [15].

D. Conditions for Compensation in the Compensation System

In the system of collective compensation of victims of crime, the main question is under what conditions do government departments feel obliged to repair and compensate for the damage caused by crime? In other words, in these cases, civil society organizations and non-governmental organizations, on the one hand, and the people on the other, participate in compensating the victims [16]. Understanding this will not be possible unless the foundations of a collective redress system have been identified and explained.

1- Guarantee of Payment

One of the essential foundations of the system of collective compensation of victims of crime is to pass a special law that guarantees the payment of all damages to victims. The Council of Europe first adopted the Collective Compensation System in 1983 under the Convention on the Compensation of Victims of Violent Crimes, then on November 2, 1985, in the form of a resolution known as the Declaration of the Fundamental Principles of Justice for Victims of Crime and Victims of Abuse. From power ", accepted this establishment. In the United Kingdom, the government's obligation to compensate victims is based on Compensation Convention. If it is

impossible to compensate from other sources, the government is obliged to compensate the qualified and deserving victims, especially the victims of severe bodily injuries or disability. The duty to compensate can be extended even to cases where the perpetrator has not been prosecuted or punished [16].

With the enactment of the Law of July 6, 1990, the French legal system established a collective reparation system for victims of crime. The process of reparation is entirely independent of criminal proceedings, regardless of whether the perpetrator has been convicted. This process allows victims of intentional and unintentional crimes to make up for the damage caused by the crime through the Commission for the Compensation of Victims of Crime, which is the exclusive authority for compensation. According to the law, victims of serious crimes such as the assault on a person, including rape, the threat of sexual harassment, intentional or unintentional homicide, intentional or unintentional violence that results in complete absence from work for more than one month can receive damages in full [17].

What can be deduced from the whole of this law is that the legislative criminal policy based on the rights of the victim requires not only the approval of the courts but also civil society (through victims' assistance associations); this policy is a criminal policy based on the participation of civil society [18].

2- Proof of Victimization

In the individual compensation system, the victim can seek redress from the court by filing

a claim for pecuniary or moral damages resulting from the crime as part of the criminal proceedings. Moreover, within its competence, condemn the perpetrator to pay damages resulting from the crime and its benefits [19]. This reparation method, which takes place at the end of the criminal proceedings, will be effective and efficient when the perpetrator is identified and can compensate and restore the status quo ante. In a collective redress system, a person can be considered a victim, regardless of whether he or she has committed, identified, prosecuted, arrested, tried, or convicted.

This issue is essential in how the right to compensation is realized and exercised for the victim, because according to the criteria of supportive victimology, in compensating the victim, the government must be able to pay compensation to the victim, so it will only prove the victim regardless of other components of the crime [20].

3- Possibility of Compensation

In the French legal system, to facilitate the full compensation of victims of crime, the first law on collective compensation in the light of the November 1983 Convention of the Council of Europe on Compensation for victims of terrorist crimes whose perpetrators are unknown. Thus, the government was obliged to pay compensation, then the French legislature, along with the special regime for victims of terrorist crimes, established a general regime for all crimes, and thus the law on compensation of victims of crime adopted in

1990 entered the legal system of this country [18].

4- Scope of Victims

In the collective compensation system, the victim is both direct and indirect victims. In other words, in addition to the person directly affected by the crime, individuals such as family, relatives, friends, and even injured persons in the process of assisting victims or in preventing victimization fall into the scope of this definition (Such as lawyers or social workers).

Today, in addition to the first or direct victim, the second and third victims are also mentioned [21], such as illicit sex in which two or more parties, including the offender, the victim, and his family, are involved in criminal behavior. The primary or second victim's criterion is the damage and loss that is, directly and indirectly, inflicted on the injured person and not only the personality and relationship of the person related to that criminal event [22].

CONCLUSION

The purpose of the collective compensation plan is to support the victim and repair medical, material, and psychological damage outside the usual mechanisms and as soon as possible. It is also based on recognizing the government on the one hand and compensating for the other's losses.

In the contemporary world, many legal systems try to compensate the damage done to the victim due to the crime in such a way that the

victim receives all his damages, including material, spiritual and psychological, regardless of whether the criminal is prosecuted or not. Also, regardless of whether or not he can compensate for the damage inflicted on the victim [23]. Achieving this important goal will be possible when the collective redress system is formed in the context of legislative policy to accelerate and facilitate the redress of victims outside the court process.

One of the essential principles that guarantee the implementation of collective reparation for the victims of crime is the principle of absolute responsibility of the government in the full compensation of damages in the context of harmlessness and justice and social solidarity. According to the analysis, to fully compensate the victims of crime, it is recommended that the legislative system establish and approve comprehensive and complete laws and regulations.

Moreover, these regulations should be enacted so that the victims' collective compensation has emerged and takes on an objective and practical effect.

ETHICAL CONSIDERATION

Authenticity of the texts, honesty and fidelity has been observed.

AUTHOR CONTRIBUTIONS

Planning and writing of the manuscript was done solely by the author.

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CONFLICT OF INTEREST

No conflict of interest was reported by the author.

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