

The Impact of Victimological Theories on the Rights of Crime Victims in France

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Victimological theories emerged as an inevitable element of the criminological observations (Pinatel 1975; Debuyst et al. 1998 and 2008) which surrounded their creation at the beginning of the 1950s. Due to the state of scientific knowledge at the time, these theories had a very narrow focus on the characteristics of the act, the mechanisms of committing a crime, and the personality of the perpetrator¹ alone. Nevertheless, they began contributing to the strengthening of victim rights, which until then had exclusively focused on repairing bodily and material damage. Undeniably, over recent decades, victimological theories have helped to promote the ongoing humanization of criminal proceedings. This benefits all concerned by the crime suffered/committed, from the protagonists themselves to society as a whole, including the numerous parties who contribute to a cross-disciplinary strategy of prevention, control, and optimum harmonious treatment of the criminal phenomenon (Cario 2008).

This study essentially aims to evaluate the rights of (potential or real) victims of crime, throughout the criminal process, by examining contemporary criminal and penal policies in light of victimology. The reparation of the damages suffered has always followed more or less vindictive procedures (of elimination) or vindicatory ones (of reciprocity, sharing, and reconciliation). It

cannot be said that responses to crime have historically been based on the first of these, with the second belonging more to a supposedly civilized world. Although it is not possible to precisely define how far a civilization is concerned about human dignity, particularly the dignity of those who may be involved in crime, it seems that these two methods of resolution/regulation of conflicts between subjects have always existed, or even coexisted. They continue today, although symbolically, in view of the assertion of the fundamental principles of criminal law, the proclamation of human rights, and the implementation of crime-fighting policies which are far less concerned with retribution than with taking people into account (Laingui and Lebigre 1979 and 1980; Carbasse 2006; Garnot 2009; Zehr 1990).

Despite its imperfections (particularly the social status of the person concerned), the adversarial system long allowed for consideration of the victim, whose active involvement was a necessary element in any criminal procedure. Although the inquisitorial system had its advantages (the state initiated proceedings, in principle for the benefit of all victims), it excluded the victim from procedures which directly concerned them. However, in both cases, many criminal conflicts were “resolved” without any official litigation by tradition or law. The pervasiveness of infrajustice throughout our criminal history cannot be denied.

¹ The term *perpetrator* should be used only to refer to people who have broken the criminal norm (whatever it may be), for at least two key reasons: the first lies in the temporal and geographical variability of criminal systems, and the second in the presumption of innocence that protects those who have not been proven guilty. Obviously, it may refer to people carrying out a sentence of imprisonment or a sentence within society.

However, it is more accurate to speak of alternations and superimpositions: the complexity of the criminal phenomenon irremediably condemns any reductionist approach to human behaviors, criminal or otherwise. It seems that the criminal justice system is permanently being reconstructed, in conceptual, praxeological, and practical terms, driven by the ever-renewed desire to provide the fairest possible trial (Garnot 2009).

In order to achieve such a democratic ambition, which is undoubtedly legitimate, necessary, and promising, complementarity between criminology (of the aggressor and the victim) and criminal law (substantial, formal, and regarding sentence enforcement) is required. Aside from the incontestable statement that the criminal situation precedes the very creation of the repressive “norm,” there can be no competition between these disciplinary fields. However, many interdisciplinary schools of thought refuse to acknowledge these obvious facts, irrespective of the scientific approach to crime via a cross-disciplinary rationale.

The impact of victimological theories on the rights of victims has become particularly apparent over recent decades.

Nevertheless, this impact remains difficult to describe, because (oddly), the victim is not legally defined,² with the science dedicated to him/her not receiving any more unanimous definition from legal doctrine.³ Nevertheless, it is improved scientific understanding of victims that has allowed their ethical rights, and more recently their procedural rights, to be recognized. Firstly, classical theories fitted into the positivist epistemic framework, which took issue with the notion of the judge placing criminal responsibility on the accused once he or she has been held accountable for the action in question. The degree to which the victim may be to “blame” in the perpetration of the act was therefore of prime importance in the eyes of the first victimologists, as part of efforts to calculate the extent of the perpetrator’s guilt. Scales of guilt led to classifications, which were soon criticized for their sometimes caricatured nature. However, other proposals are worth comparing to the most rational of the theories that succeeded them (primarily Von Hentig 1948; Ellenberger 1954; Mendelsohn 1956; Fattah 1967).

Secondly, reacting sometimes excessively to research on the criminal-victim pairing, feminist victimologists aggressively

² See, however, article 2 (which must be enshrined in French law by November 16, 2015) of Directive 2012/29/EU (October 25, 2012) by the European Parliament and Council, setting out the minimum standards for victim rights and for crime-victim support and protection. This directive replaces Council Framework Decision 2001/220/JHA, according to which “For the purposes of this Framework Decision: (a) ‘victim’ shall mean a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State.” This can be compared to Cario (2012, 39), according to whom “Any person who suffers must be considered a victim. a) These sufferings must be personal, real, and socially recognized as unacceptable; b) and must justify support for the persons concerned, ranging (depending on the circumstances) from the nomination of the act or event, to participation in the procedures for revealing the truth, legal information, medical care, psychotherapy, psychological or social support, and compensation.”

³ See Cario (2012) pages 42 and particularly 44: “Victimology, a branch of criminology, can be defined as the multidisciplinary scientific discipline concerned with the overall analysis of victimizations, in their individual, collective, and social dimensions, in their emergence, their process, their consequences, and their repercussions, in order to favor their prevention and, where necessary, bodily, psychological, social, and/or material reparation for the victim and/or their family.”

contested this “art of blaming the victims.” This in itself gave rise to an initial and very productive epistemological break, without which victimology would undoubtedly not have survived. Wishing to understand the harm done to women as a whole, they set up victimization inquiries (following the very popular model of the self-confession investigations reserved for possible criminals). The results were unique and highly relevant. They allowed the first “profile” of victims to be drawn up, permitted systematic examination of the reasons for which victimization is not reported, and allowed for a clear description of the stigmatizing experience inflicted on victims by the legal apparatus in its wider sense.

Based on these successive achievements over a matter of just decades, victimologists from the 1980s onwards developed scientific approaches to the hidden side of crime, using constantly updated knowledge from the neurosciences, psychology (in the wider sense), sociology, and recently, restorative victimology. The latter, with its global approach to the criminal phenomenon, seems able to reconcile the various penological and criminological doctrines, which some still see as strictly opposed and incompatible. In fact, available research confirms the true proximity between the protagonists, at least as concerns the infractions of our basic social values (crimes and serious offenses involving violence, deception, or force).⁴ They are

shown to be close in terms of instability and vulnerability (which may be personal, emotional, familial, educational, professional, social, cultural, or spiritual), as well as in relationship terms (in the vast majority of crimes against people, the protagonists know one another). These shared types of vulnerability, in environments that may be unavoidable (the family), coincidental (school and peer group), or chosen (living environment), often make the roles of victim and perpetrator interchangeable, creating an almost fatal cycle which our exclusionary societies are unable to break (or do not wish to, where the causes are known).⁵ Such social brutality, which is intolerable in a democracy, must give rise to essentially preventative criminal and penal policies, and where these fail, to policies of resocialization. Anyone wishing to engage in scientific study of this subject, without giving in to background penal populism, knows very well that penalties depriving perpetrators of their freedom, although necessary for serious offenses (which account for 20% of criminal convictions—and therefore 0.5% of offences—in France), are extremely counterproductive in fighting recidivism. This is true as concerns the time in prison itself (Kensey and Tournier 2005; Kensey 2007; Tournier 2010; Kensey and Benaouda 2011) and also as concerns the cross-disciplinary or multiprofessional individualization of the sentence, which is essential for progressive and effective reintegration

⁴ It is useful here to remember that French criminal law does not explicitly define criminal offenses other than via a classification by seriousness (as crimes, offenses, and infringements (article 111-1 of the French Penal Code). In its criminological sense, “crime takes the form of a breach of a value established as fundamental for the human, cultural, and social wellbeing of members of a group in which the conflict emerges,” (Cario 2008, 191).

⁵ The first victimologists were not unaware of most of these different factors. They included the random allocation of the roles of criminal and victim, fair and full compensation for victims, multidisciplinary clinical assessments, and the importance of protagonists’ vulnerabilities. Nevertheless, given what is known today, science cannot validate the emphasis that “victimology of the act” places on the fault of the victim (particularly in cases of sexual violence against women) or “predispositions” (specific or general) to become victims.

into society.⁶ A survey conducted in 2009, but published in June 2013(!),⁷ examining a representative sample of the French population, revealed that three-quarters of people asked did not believe that prison was an effective way of combating recidivism. As a logical consequence, 64% were in favor of adjustments to sentences.

France's 1808 Criminal Procedure Code officially allowed crime victims to bring civil proceedings before the criminal courts. This is particularly envied in common law, where the victim has only witness status. Nevertheless, it was not until the second half of the twentieth century, when the necessary accompanying rights were introduced, that it really became possible for victims and their families to seize this important opportunity, and obtain full and effective compensation. This evolution has only really become visible and measurable over the last four decades. The 1980s was the decade of the right to recompense for damages suffered (fixed in 1977, then full and nonsubsidiary from 1990). The 1990s saw the introduction of the right to victim support, with victim support services created from 1982, and federated within the National Institute for Victim Support and Mediation (Institut national d'aide aux victimes et de médiation: inavem.org) from 1986. The first decade of the 2000s were ones of the *rationalization of victim rights*, particularly with regard to their subjective rights. The circular of July 13, 1998, brought the first reasoned criminal policy on victims. The first public policy for victim support was drafted out in the Lienemann report, submitted to the prime minister on

March 29, 1999. The law of June 15, 2000, was largely inspired by this report, and aimed to set out a real status for crime victims. The 2010s seemingly are attempting to move towards the restorative approach to crime. In this approach, both the victim and the perpetrator (as well as their family and the communities to which they belong) are placed at the heart of the available measures (including community, legal, psychological, and/or social measures), in a taming (Saint-Exupéry 1943) or adaptive approach. The most promising illustrations of this, complementing the dominant penal response (which is currently too inflationary), have been restorative meetings like mediation, family group conferences, sentencing circles,⁸ and detainee-victim meetings, despite the avoidable risk of them being exploited (on this evolution, see Cario 2001; Lopez, Portelli, and Clément 2007; Strickler 2009; Ministère de la Justice et des Libertés 2012; D'Hauteville 2013).

Without such a strategy of inclusion, involvement, and collaboration of all those wishing to take part, being put in place by trained professionals, the whole penal chain, social reintegration attempts, overall reparation, the restoration of social peace (regarding the protagonists, those around them, and society as a whole), and the reestablishment of social harmony can be nothing more than wishful thinking (Zehr 2002; Cario 2010). Although it is not possible to describe all the dimensions of the impact of victimological theories on victim rights, it nevertheless seems appropriate to examine their interconnections chronologically and on two levels, namely looking at repairing

⁶ Incarceration also significantly worsens the inequalities already suffered by prisoners in terms of health and family life, both during and after imprisonment. On this, see Wildeman and Muller (2012).

⁷ Belmokhtar and Benzakri (2013). See also Lévy (2013), which refers to a 2011 issue of Infostat Justice entitled "Les Français et la prison" (2009 survey), not listed as such in the collection.

⁸ On this, see § 46 of Directive 2012/29/EU, to be enshrined in French law before November 16, 2015.

the damage caused by the crime, and the role given to victims and/or their families throughout the penal process.

A – From Compensation Alone to the Right to an Overall Remedy for Crime Victims

Compensation of the victim or their loved ones has always been a priority in dealing with the damages caused by the transgression of a value that the social group considers should be protected. Within various methods and procedures, compensation has taken the form of noxal surrender, voluntary arrangements, equivalents, or financial transactions. These “damages and interests” have more recently become a recognized right before the criminal or civil courts. France’s 1958 Criminal Procedure Code (which substantially altered the 1808 Code) thus allows the victim to receive civil redress for their damages before the criminal judge, if desired. Thanks to this institutionalization of civil action, the victim can be compensated for all damages suffered and, just as importantly, participate in bringing out the truth and fighting impunity.⁹ The second of these “two faces of civil action before criminal courts”¹⁰ is still problematic for some aspects of legal doctrine, inadequately influencing case law, and retaining only its “vengeful” aspect in the strictly vindictive sentence. Current victimology allows for the rejection of such an approach to victimhood: in the daily life of the courts, the victim is in a far more vindictory position, in which they ask to understand what has happened (often within the small family circle), and thus avoid this type

of crime or serious offense being repeated, and participate in the search for solutions together with the perpetrator (where appropriate), in order to be reconciled. The most inadmissible vindictive attitudes are undeniably present in everyday court life, but they are very rare. They are mostly the result of the parties having been insufficiently supported in the aftermath of the events, or of bad management of the case, resulting in secondary victimization at various stages of the penal process. The fate of victims of petty offenses or contraventions (which are very unfairly sanctioned) gives even greater cause for concern: most of the time, they are forgotten in alternatives to judicial proceedings, and unseen by the qualified tribunals, because the acts are perceived not to be serious. Consequently, the victims’ rights are sacrificed on the altar of merciless criminal inflation. Consequently, the huge benefits of massive, urgent decriminalization that conforms to the fundamental principles of criminal law (particularly necessity, proportionality, and rapidity) seem easy to imagine.

Since 1970, the Council of Europe has included compensation for crime victims as an issue on its work program. French law provides remarkable legislation in this domain, offering one of the most effective compensation systems in the world (1977, 1986, 1990, 2008; art. 706-3 and s., R 50-1 and s. C.pr.pén [Criminal Procedure Code]). Together, the Compensation Board for the Victims of Crimes (Commission d’indemnisation des victimes d’infractions, or CIVI: civil jurisdiction, independent) and the Guarantee Fund for Victims of Terrorism and other Offences (Fonds de

⁹ According to article 2 of France’s Code of Criminal Procedure, “Civil action to claim reparation for damages caused by a crime, offense, or infringement is a right of all those who have personally suffered from the harm directly caused by the infraction.”

¹⁰ See Boulan (1973).

garantie des victimes d'actes de terrorisme et autres infractions, or FGTI, funded by a €3.30 deduction on all property insurance contracts; see www.fgti.org), ensure that victims and/or their loved ones are rapidly compensated by the national community after the event.¹¹

A tripartite regime currently applies in France.¹² For the most serious offenses (art. 706-3 *C.pr.pén.*), full and unconditional compensation is available for recognized damages. This is the case for death, permanent disability, or total personal disability lasting one month or more, human trafficking, rape, sexual assault, or sexual interference with a minor under fifteen years of age. Several less serious offenses may also result in compensation (art. 706-14 *C.pr.pén.*), in certain circumstances (capped or subsidiary compensation, possibilities of payment by third-party payers, means testing, or serious psychological and material situations). This may apply for theft, fraud, breach of trust, extortion, and destruction or damage to property. More questionably (as there is a risk of FGTI impoverishment, and it would be preferable to systematize the “personal accidents guarantee,” as a “social provision” benefiting the most vulnerable), victims filing civil suits, not ad-

missible before the CIVI, can call upon the Recovery Assistance Service for Victims of Offenses (Service d'aide au recouvrement des victimes d'infraction, or SARVI, art. 706-15-1 *C.pr.pén.*), in order to obtain payment of damages and interests accorded by the criminal judge (where the condemned is insolvent or refuses to pay).

In practical terms, any person¹³ who has suffered harm as a result of voluntary or involuntary acts of a criminal nature can file a claim for compensation, with the necessary supporting documents, to the CIVI registrar. This must be completed within three years of the offense or within a year of the legal decision. The registrar immediately passes the claim to the FGTI, who must make a compensation offer to the victim within two months. Following agreement and approval, within two months of the settlement proposal from the CIVI president, the sums awarded are paid within one month. Otherwise, the judicial procedure continues as normal before the CIVI, or even the trial judge. Like provisions during the proceedings, the aforementioned jurisdictions can award additional sums if further disadvantage is caused (Tisserand 2012).¹⁴

There is great debate concerning the issue of the victim's responsibility. However,

¹¹ Accidents at work, road traffic accidents, and hunting accidents are covered by other, equally effective compensation systems.

¹² Victims or their families can also choose the traditional civil tribunal or the criminal tribunal, for example by direct summons of the accused. These courses of action (subject to specific time limits) are not without major disadvantages for the victim, who must offer proof of the accused's acts and of their sufferings in the first case, and wait for the final decision in the second (in which they are only a witness, unless they launch civil action, thus placing them back in the above scenario, which is by far the most effective one).

¹³ All victims (and their families) of French nationality or who are citizens of an EU Member State are eligible when the offense is committed in France. Similarly, a foreign victim can be eligible if they are residing legally at the time of the events or of their request. Only a victim with French nationality can obtain compensation for offenses committed abroad.

¹⁴ This case law particularly applies to ongoing domestic violence, where the spouse under attack reacts by killing the violent partner and where it is not possible to plead legitimate defense. See in particular the Supreme Court of Canada's decision in the emblematic “R. v. Lavallée” affair (1990) 1 SCR 852/21022, scc.lexum.org. See also (in France) the Cour d'Assises du Nord's acquittal ruling of March 23, 2012 (Guillemin affair), in Pascale Robert-Diard, prdchroniques.blog.lemonde.fr.

it is necessary to differentiate between two, nonreducible situations. In civil proceedings before the CIVI, blame on the part of the victim can reduce or exclude their (and/or their family's) right to compensation. This may be the case, for example, where the victim provokes the accused using insults or threats (sometimes under the influence of various toxic products), and in cases of score settling in large-scale crime. In criminal law, the issue is somewhat trickier. The first victimologists suggested that victim responsibility should be taken into account, constructing highly controversial typologies. Penal decisions may still discharge or acquit of the perpetrator, when the crime is committed in response to domestic abuse (Fattah 2004; Fattah 2011).

The everyday observations of practitioners within victim support services in particular, relayed by victimological doctrine, have further broadened the field of redressable damage, both in nature and in terms of the sums paid. A wide range of temporary, permanent, current, and future damages are taken into account. The right to reparation is first of all available for economic damages as a result of losses suffered in the wider sense: medical costs, loss of independence, and practitioner's fees (for doctors, lawyers, and so forth). Similarly, compensation is available for lost profits (mainly job loss, incapacity to work, loss of opportunities, and a child's loss of amenity). Compensation can also be obtained for nonpatrimonial damages. Since these relate to the person, they are not subject to payment from a third-party payer. Temporary functional deficit concerns reduced quality of life (suffering, fear, withdrawal, and so forth). Permanent functional deficit primarily includes disfigurement and the inability to indulge in certain activities (leisure, sexual pleasures, procreation, starting a family, anxiety linked to waiting, and so forth).

The theoretical and clinical impact of victimology is also seen in the right to compensation for damages for specific offense situations and/or their consequences in the short or long term. For example, compensation for victims of terrorism and their families has changed greatly, particularly thanks to the work of the founder of the victim association SOS-Attentats (Rudetzki 2002; Rudetzki 2004), who is now "terrorism delegate" within France's National Federation for Victims of Collective Attacks and Accidents (Fédération nationale des victimes d'attentats et d'accidents collectifs, fenvac.org). The epidemiological inquiries carried out at the request of SOS-Attentats in 1987 and 1989 specifically emphasize that severe physical, psychological, and social suffering (primarily post-traumatic stress, ongoing effects on hearing, loss of social and professional aptitude, and lasting depression) can continue for varying and extended periods of time after the event. This is particularly worrying in terms of public health. These very complicated, collective victimizations require immediate and high-quality medical and psychological intervention, via the establishment of multidisciplinary teams who are specifically trained to help these physical and/or psychological victims. Exclusively, the suffering of victims of terrorist attacks still justifies reparation for specific harm, set at 40% of the capital for partial permanent incapacity, with a minimum of €2,300. It is also worth examining several additional particularities concerning the compensation rights of entitled persons, particularly for harm caused by the media (for example use of photographs taken on the site of an attack), and for the psychological distress, problems in the living community, and frequent medical visits related to dealing with the suffering of a dying loved one (Cario 2013). The "security and terrorism" law of December 21, 2012, responded

to other demands from victims and their representatives. These included the application of French criminal law to acts committed abroad by a French person or a person normally residing within the French territory, the entitlement to the common right to damage claims in criminal proceedings within one year of the criminal court's decision on the public or civil action to be taken,¹⁵ and the inclusion of the phrase "died to serve the nation" or "victim of terrorism" on the death certificate (giving the person's children the status of wards of the nation).

A further example of the impact of victimological works and practices comes from applying knowledge acquired on the postcrime state of stress to victims of serious offenses, thus broadening their right to compensation. It is now proven that victims of serious offenses suffer varying degrees of trauma (a true psychological injury) as a result of the psychological damage that the criminal act inflicts. Trauma is entirely unpredictable, and depends on the individual's perceptions, resistance, aptitudes, and social-support resources. The suffering provoked by the event can lead to a state of stress, which is generally short lived and may or may not be specific, or even to a state of confusion over the days following the criminal act. However, the trauma can cause deep psychological injuries when the subject faces the prospect of death (physically or psychologically in cases of rape), their own imminent death, or that of a loved one or any other person. Thus, the terror of this precise moment (shock, inability to think, a blank mind) is a key symptom of a trauma that might characterize traumatic neurosis (Lebigot 2005; Kédia and Sabouraud-Séguin

2008). These various problems are listed in clinical tables under "acute stress disorder" (ASD), and "post-traumatic stress disorder" (PTSD).¹⁶ While the symptoms of ASD disappear fairly rapidly, those of trauma are buried within the psychic apparatus, and may only resurface much later, following a latent period, depending on the individual and the situation. The trauma may therefore cause symptoms such as repetition, personality change, traumatic dreams, fatigue, sadness, daytime memories, character alteration, low self-esteem, dissociative episodes (flashbacks), permanent alertness, family/relationship/professional conflicts, various inhibitions, phobic avoidance, drug addiction, depression, and various psychosomatic illnesses (Herman 1992; Brillon 2004; Guay and Marchand 2006; Josse 2011; Guay and Lopez 2013). Fortunately, psychological care for those concerned has developed on these bases within the criminal justice system itself, via highly original and effective care initiatives. These include the creation of multidisciplinary medico-psychological emergency units which intervene on the sites of attacks or offenses (Cario 2010), and highly innovative and effective therapeutic practices (Damiani and Lebigot 2011).

One final example demonstrates this rich collaboration between victimologists and criminologists. Although it is so far perhaps the least advanced, it has nevertheless brought remarkable changes in professional legal practice (in the wider sense), regarding the consideration of the social repercussions of victimization. Under the joint impetus of police and victim support professionals, the mid-1970s saw the introduction of social workers in police stations,

¹⁵ Submissions to the FGTI formerly had to be made within ten years of the attack. The new law allows the FGTI Administrative Council to reopen cases for legitimate reasons.

¹⁶ See "DSM-V" (dsm5.org) or "CIM 10" tables (who.int).

¹⁷ See article L 121-1-1 of France's social action and families code (code de l'action sociale et des familles, introduced by the law of March 5, 2007), which legitimizes their status.

first in Chartres, then in Limoges. Now in place at 180 locations, mainly in urban and periurban environments, this “new” profession,¹⁷ which is still poorly funded, provides a very satisfactory response to the needs and responsibilities of all involved. These social workers are specifically trained in social intervention. They are responsible for meeting and listening to those who come to police stations or teams, and for responding to their needs using a network of partners: medico-judicial bodies, accommodation and social rehabilitation centers, victim support services, and health and/or social organizations. They are in constant demand, due to a pressing social need and penal victimizations (particularly within families), and they offer a tailored and coordinated response, as soon after the event as possible. Given the criminological complexity of social distress or crime situations that these social workers face, it is highly desirable for them to belong to a victim support service (aniscg.org). It is in this spirit of multidisciplinary action immediately following the event that the emergency victim support service was created in the 2000s.

This strategy of providing social support as soon as the events come to light is indispensable. The victimization suffered further aggravates the victim’s situation, and that of those close to them. It may result in marital and even family issues (exacerbated by not being able to rapidly express the feelings provoked by the victimization); problems at work (either technical or in working relationships) which may lead to absenteeism; job loss, or resignation (when the victimization took place in the victim’s mode of transport or at work); inevitable socioeconomic problems (when the victim’s professional and social abilities are affected); relationship problems (particularly related to the difficulty of publicly assuming the harmful consequences of the crime and/or

the victimization); dropping out of school; and antisocial behavior on the part of children and adolescents. This accumulation of consequences is worse when the offense is a serious one, involving the loss of a loved one (Rossi 2013), a physical or psychological attack with serious consequences, rape, or even an attack on property which ruins the victim and/or their family. They may also lead to social dependency, isolation, rejection, and even social exclusion. Scientific research is required into these potential social repercussions, which are still largely neglected today. Their consideration offers immediate benefits for victims and/or their families, as well as long-term advantages for society (reduced expenditure), thus showing that social work plays an essential role in the short-, mid-, and long-term support for issues involving family, work, and the social reintegration of victims and their families.

More generally, the most recent studies emphasize that in order to represent emotions, it is necessary to remember them as realistically as possible. It seems that the “social sharing of emotions” facilitates this, since others’ words add new meanings to those that the victim attributes to the traumatic event (Rimé 2005). Such a representation is even more indispensable for victimizations within the family environment, in order to help the victim escape the tyrannical hold of their aggressor, to whom they are emotionally linked and on whom they are often socioeconomically and culturally dependent. Thus, beyond the victim’s own individual recovery through social sharing of their emotions, the emotional relationships between humans reinforce and contribute to strengthening social harmony in general. This is why it is necessary to constantly resituate the trauma in a wider victimological context, in order to fully take the victim into account.

Based on observations in victimology and victim support, specific provision should be made for real, professional victim-assistance initiatives (legal, judiciary, psychological, and social ones), in the immediate, short-term, mid-term, and even long-term aftermath of the event. In contrast to the victimizing passivity of the protagonists which still characterizes criminal procedures, it is therefore important to allow victims and their families to become as active as they are willing and able to in dealing with the consequences and repercussions of the infringement, which present severe dangers for social harmony.

B – From Representation Alone to the Empowerment of Crime Victims

The move towards overall reparation for victims of offenses and their families seems to be the best example of effective collaboration between victimologists, jurists, victim support professionals, the police, magistrates, and (more generally) all of those socio-judiciary players involved in the prevention, control, and treatment of the criminal phenomenon, including as legislators. However, effectiveness (the criminal justice system's capacity to assume the staffing and resource costs of these three complementary missions) is not necessarily synonymous with efficiency (be it pragmatic, in order to resocialize and make amends to those concerned, symbolic for the purposes of restoring social peace, or educational in order to ensure respect for the protected value and legitimate punishment for transgressions). The proof lies in the permanency of the attenuated but still insidious forms of secondary victimization, which are highly destabilizing and even traumatizing. The only effective defense

against these aberrations is the professionalism of the various people who recognize the human dignity of the victim and/or their loved ones and allow them to exercise their rights fully and easily.

In this sense, it is notable that works in victimology were quick to observe the perverse manifestations of secondary victimization. Feminist victimologists showed, during victimization investigations (which they were the first to develop), that victims suffered entirely unjust secondary victimization at the hands of by the criminal justice system, from police to judge (be it an investigating judge, a trial judge, or an enforcement judge) (Symonds 1980; Baril 2002; Gaudreault 2004). Moreover, this serious neglect of victims, which slows their referral to the relevant authorities to address their suffering, is common and threatens both their dignity and the principles of a fair trial. Victims suffer derision (in response to the reported facts), provocation (regarding the "credibility" of their claims), scorn (concerning the consequences of the affair and the trial process), and abandonment (regarding the recovery of compensation awarded).

Just as importantly, the works of feminist victimologists have allowed victims to finally be recognized through their sufferings, whether the offence is reported or not, and even if it is dismissed during the proceedings. After classical assertions on "victimogenic" factors, these investigations allowed them to systematize the personal and social characteristics of crime. In this sense, and schematically, the most serious victimizations mostly take place not in public transport or parking lots, but in the family home itself. Consequently, in most cases, the victim knows their aggressor. In short, victims live in various and severe situations of vulnerability. Marital and sexual violence is, as a rule, chronic and extremely

victimizing (Baril 2002). The links between violence committed and suffered are highly apparent. More specifically, the main reasons for victimizations not being reported to the relevant authorities are clearly identifiable: the victims are vulnerable, they fear reprisals, they are ashamed to reveal what they have suffered or been unable to prevent, and they fear or do not understand the solutions available to them.

In light of these works, it is unsurprising that their authors rightly assert the need to develop far more sophisticated ways of dealing with offenses, undoubtedly on the juridical-penal level (sanctioning the perpetrator and compensating the victim), but also and even more so on the psychological and social levels (supporting the victim, and healing trauma). Thus, during the 1960s, the first victim support services emerged in the Anglo-Saxon countries, for victims of (mostly male) violence, such as domestic mistreatment and sexual violence. In France, the first such services were created in the early 1980s. Today, their work is broader, extending to all types of offenses and gender of the perpetrator.

In the same vein, victim representation by law professionals at all stages of the criminal procedure, the low importance given to their words, and their very place in the courtroom have all made victims passive, invisible, and powerless. Such inhumanity in “taking charge of” victims (with various players using their powers to speak for them) has given way (although still not entirely) to their being “taken into account” (with various players using their powers to help them exercise their rights), via a “one-stop shop” strategy. Today, all professionals know that if the victim’s sufferings are not recorded when they are first revealed, it will be very traumatizing for them to return to them, because “repeating is redoing and re-living.” This is why it is so important to have

truly competent frontline professionals, and readily available technical recording methods.

From an ethical point of view, all victims have a set of three rights which are inherent to their victimized-person state, and which are not dependent on any criminal procedure. These rights have two aims: to guarantee their human dignity and the rights connected to it, and to reinforce their role as active subjects. Concerning the latter aspect, it is necessary to overcome the widespread confusion between the victim’s “role,” “status,” “place,” and “state.” It goes without saying that victims should never be able to lose their state as a person. Nevertheless, crime deeply and sometimes lastingly shakes life’s most fundamental beliefs: that the world around us is benevolent, that it is well ordered (has meaning), and that we are part of it as a harmonious contributor. In order to give (back) meaning to their lives, victims need to understand what has happened to them, and what they might have done to prevent it. If victims lack answers, they will tend to blame themselves and other people. Unable to regain control over their own lives, they lose their self-esteem, and feel degraded and dehumanized, thus becoming even more vulnerable (Janoff-Bulman 1992; Luminet 2008; Williams and Poijula 2013; Horowitz 2013). In order for a victim wanting to regain control to be able to take on this kind of role, they must be given a specific status, made up of subjective rights that regulate their situation, independently of any proceedings or criminal courts. Similarly, if the victim so wishes, they must be offered a place throughout the criminal proceedings and take a clear position in the courtroom space. However, this must be on the condition that they are given the possibility of escaping the traditional passive role to which the criminal justice system still confines them, so that they can

finally regain active control over their life as a subject (having been robbed of this by the crime).

The victim's right to **recognition** ensures that their state as a suffering person is taken into account. This is a fundamental ethical position. Recognition from others is the basis of the victim-subject's and the perpetrator-subject's humanity: "The me is awakened by the grace of the you" (Bachelard 1935). According to Axel Honneth (1992), social-recognition relationships are structured around three characteristics pertaining to love (a vector of self-confidence), rights, (a vector of self-respect), and social solidarity (a vector of self-esteem). Recognition is therefore "based on the experience of intersubjectivity [which supposes that] the relationship is more important than the individual" (Guéguen and Malochet 2012).

The **support** of those involved is an essential accompaniment to recognition. Supporting someone means linking oneself to them to go where they go, at the same time as them, and at their pace. It also means empathetic sharing of the sufferings of the protagonists—certainly those of the victim, but also those of the perpetrator. Placed at the center of the process of consideration, the victim is the only person who knows the suffering he or she has experienced; he or she is the only person who knows the direction that needs to be taken, and what the crucial problems that need to be faced are and what his or her needs are to be able to resolve those problems (Rogers 1961).

Reparation must be total, full, and effective. It means taking care of oneself and of the other as a victimized person, taking into account the complexity of all that has been suffered. Material compensation is necessary, but it is not enough (see above). Psychological and social reparation, where necessary, must also come into play. Similarly, in criminal proceedings, full partici-

pation as an active subject offers both procedural reparation and, once the decision is final, symbolic reparation through naming and separation (of acts and persons).

Should it be emphasized that these ethical positions must also benefit the perpetrator, who, however serious his or her acts, is still a person with fundamental human rights, to whom the major procedural principles must also apply? Should it be emphasized that these rights and principles must be shared by the immediate and close communities to which the protagonists belong, as well as more widely by all citizens? If this is not the case, any attempts to restore the social bond will remain wishful thinking.

Thanks to the work of victim support practitioners (in the broadest sense) and researchers in victimology, new needs have been identified. These have finally allowed legislators to allocate a "status" to victims of offenses. Thus, in order not to remain little known or unknown, the victim must have free and quick **access to the law**. All democratic societies must introduce initiatives to provide this. Similarly, obtaining legal aid consolidates the recognition of every victim's right to the valuable defense of a lawyer. The victim can choose between civil proceedings (an ordinary judge or the crime-victim compensation commission) or criminal proceedings (direct proceedings, an ordinary complaint, or a complaint with a claim for criminal indemnification). Taking civil action offers real guarantees to victims of crimes or serious offenses (the proportionality principle must apply), or their entitled persons. It does this by allowing them either to engage public action (by means of action), or to become a part of it (by means of intervention). Although this is an important right, victims can still struggle to fully exercise it in everyday practices.

It is just as important to respect the rights of victims to **be received, speak, and**

be listened to. The conditions in which the victim is received are essential to their recognition, from the moment they report the offense, to the execution of court decisions. There is a need for dedicated, adapted premises, with the necessary technical equipment (for audiovisual or digital recordings of hearings), in order to record the first, always difficult, moments in which the victim recalls their experience. These must help to avoid repetition of the painful circumstances of the victimization further down the line. In all of these locations, multidisciplinary teams or specially trained personnel must be available to listen to victims and help them express themselves, during the physical and psychological ordeal of recounting their experiences. Such an ability to listen and, above all, to reformulate what the victim has expressed does not come naturally: it requires specialist training and continuing professional development. If they cannot share the painful emotions created by the crime, victims become highly frustrated and struggle to understand. They may experience doubts about the usefulness of the process and the real gravity of the events, or feel that the criminal justice system is defending its own interests. The victim's statements need to be heard and believed, as part of the presumption of victimhood. There is nothing more traumatizing than having one's words doubted, without nuance or precaution. They also need to be understood (if necessary, via an interpreter). This needs to happen at a pace that spares them physical and psychological fatigue, and irreproachable professional methods need to be observed.

All victims have the right to **help** in the form of emergency financial or material assistance, when such resources exist. Dedicated funds should be made available to victim support services in particular, so that they can meet the immediate material

needs after the offense: cash, hotel bookings, and taxis home, for example. Moreover, citizen support from trained volunteers in the hours immediately following the victimization should be promoted, to meet needs such as collecting children from school, checking whether any domestic constraints might cause additional distress, securing premises after burglary in agreement with the local authorities, and driving the victim to the various locations where their victimization will be addressed.

All victims have the right to **be informed** about the results and characteristics of the proceedings that might be engaged, be they criminal, civil, administrative, or disciplinary. They must therefore be able to call upon any relevant institutions or services. Information also has an influence on the victim's precise rights in getting their demands met, as regards the situation of the perpetrator and their punishment. This requires widespread victim support services, "one-stop shop" registries, forensic units, and legal advice centers which are adapted to the specific characteristics of territories. Also important in this respect is the recent extension of the judge delegated for victims, assisted by a victims' bureau, to all regional courts. Primarily, the role of victim support services seems to be primordial in assisting victims in the wider sense, in terms of legal information, and psychological and social help. The huge decrease in public funding is incomprehensible, given the needs so frequently expressed by victims, and the savings that could be made by offering immediate professional support following the event.

All victims have the right to **protection** from the perpetrator, and all necessary measures must be taken to avoid contact. To achieve this, the perpetrator can be banned from receiving, meeting, or entering into contact with the victim in any way,

with the victim then being told about this ban. Today, great controversy surrounds the question of the victim's place during the execution of sentences. Victims are still not allowed to take part in this process, and it is the responsibility of sentencing-enforcement bodies to ensure their protection. The victim must also be protected from the media, because the public hunger for "social reality" can lead media professionals to go beyond the deontological framework of the objective right to inform, without the full consent of those concerned. More professional protection is required during legitimate extension measures for condemned parties, which force those involved to relive the suffering of their victimization in an unacceptable manner, long after the events and the trial. At the same time, the very presence of the media in places where the freed person is accommodated makes true reintegration almost impossible.

Along these lines, as soon as victims and their loved ones decide to take legal action, they are guaranteed specific rights, and remarkably, when they are placed in a position to exercise them, as emphasized above, the criminal trial becomes a source of procedural and symbolic reparation. These rights, guaranteed in an equitable and balanced way to the parties, offer them the possibility of fully assuming their active role as a legal subject, rather than remaining confined to that of an object in the proceedings (as is all too often the case today). Overlaps between fundamental, ethical, victim, and procedural rights are inevitable.

The right to a **fair criminal trial** is one of the key achievements of the last century, during which international recognition of human rights has nevertheless failed to prevent the massacres of civilian populations that still occur around the world (Cario 2013). Nevertheless, as the fundamental principles of criminal law, hu-

man rights are a crucial part of our criminal justice systems. Thus, a fair trial requires a balance to be achieved between the rights of the perpetrator and those of the victims. It is based upon the importance and necessity of respecting all of the rights mentioned above. The equality of resources between all of the protagonists must also be respected at all stages of the proceedings (art. 6, European Convention on Human Rights) (Moderne 2012; Renucci 2012). Victims who file civil suits can also ask for various measures to be taken under France's Criminal Procedure Code. These include free access to the case files, requests for hearings, meetings, site visits, expert assessments and second opinions, and recourse against decisions made at all stages of the procedure (except for criminal appeals where civil interests are not involved).

The **rights of defense** must therefore be rigorously guaranteed to the victim, and strictly upheld. A quality defense allows the victim to truly participate in the procedure. The broadening, reevaluation, and (even better) the systematization of legal aid for victims cannot be avoided, because national solidarity is expected to help them and to assume the ever-growing costs of criminal proceedings. When necessary, victims who are minors must also be represented by an ad hoc administrator. Local agreements between the bar and the victim support service greatly facilitate the defense (in terms of legal advice) and support (in terms of legal information, the trial process, and assistance at hearings) of victims. In current legislation, such agreements, which ensure complementarity between roles, are designed to better share the advantages of restorative justice measures, such as mediation benefiting adults as well as minors.

All of those encountered during the criminal procedure must be **truly competent professionals**, who offer high-quality

services. Although most are competent in their own area of expertise, they still need to be given greater awareness of the criminal issue (in initial and continuous training), on site and behind the scenes of the crime. The complexity of human behaviors, particularly aggressive behaviors, means that in order to understand, take into account, and meet the needs of those involved, it is necessary to have the most up-to-date knowledge in criminology and victimology. Complementarity between the various professionals is a real asset, as long as each of them offers their expertise without confusion between roles. The integrated coming together of responses to the victim's needs consolidates their recognition and improves reparation. No professional confidentiality should be allowed to cover the failure to assist a person who is in danger, especially where such assistance will benefit the victimized person. This makes it absolutely necessary to include criminology in the university training of teachers, researchers, and professionals concerned by ethics and deontology, providing up-to-date theoretical and practical knowledge, in a spirit of cross-disciplinarity and as part of an enlightened partnership. Yet this obvious fact is still disputed in France, as a result of out-of-date ideologies or clique mentalities.

On the other hand, all victims also have **duties**. They must therefore respect the impositions of the law and act within the appropriate period, if they wish to take legal action. All victims also have the duty to respect the institutions or services with which they come into contact, cooperating faithfully, and carrying out certain steps themselves. More generally, victims should make a point of bringing direct or indirect offenses against them to the attention of the relevant authorities. Similarly, great caution should be observed when lodging complaints, because if they are found to be

unjustified, the person making the complaint may be held civilly liable. If the complaint is abusive, there may be sanctions for defamation following closure of the case, a refusal of information, a nonsuit decision, discharge, or acquittal. More generally, the victim and their entitled persons or family must respect the perpetrator and their family as persons possessing fundamental human rights.

In conclusion, victimology theories have a significant and almost unquestionable impact on the rights of victims, at least in France. Their integration, mostly via current criminal law, is extremely important. Whatever those in charge may think, complementarity between the scientific approach to crime and the social reaction that it requires is not only viable, but also effective. Much has been achieved in this domain, but many obstacles still remain.

The restorative approach to conflicts and their regulation highlights many of these obstacles, allowing us to prevent or react to them (Wright 1996; Zehr 1990; Zehr 2002; Johnstone 2003; Gailly 2011). Beginning from acts committed/suffered, it also (and perhaps above all) encourages us to deal with the experiences of each of the protagonists, beyond the act itself. Such an all-encompassing strategy cannot be blind to the need to empower those involved, wherever desired. Specially trained professionals who take into account the legal, psychological, and social consequences of crime therefore offer the most promising route back to lasting social harmony. We must not give in to the pessimism of thought: the optimism of action as a strategy for reacting and acting must provide the route, here and now, to achieving this humanist objective.

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