THOUGHTS ABOUT THE VICTIMS' RIGHTS AND COMPENSATION

JÓZSEF VIGH

I. Ideas and recommendations concerning the reform of the judicature

1/ Criminal and procedural law ideas

In the relationship between the victim and the criminal law the as yet unsolved problem of compensation is a source of great concern. In many other European countries steps have already been taken to ensure that within the scope of the penal system of justice, compensation or steps towards this can be made.

The perpetrator is naturally the most qualified to compensate the victims of the crimes, as it was he who caused the injury, if there is no voluntary compensation, the civil procedure is available to the victim in order to receive a remedy for his injures. In the criminal law procedure there is in principle and according to legal regulations, an opportunity to oblige the appraisal of damages and payment of compensation but in practice such a measure rarely occurs.

The reparation of damage caused by the crime produce for criminal law above all, the mitigaiton of the punishment, the application of supplementary measures. *Alongside certain conditions, if the perpetrator shoulders the responsibility for the victim's injury, the court will oblige him to do this and the otherwise 'due' punishment will be approriately reduced. This can mean the suspension of a prison sentence or the lessening of the prison sentence or fine.*

The obligation to give compensation exists in an independent form as well. E.g. in Great Britain since 1982, the Criminal Justice Act (CJA) has afforded the possibility of the compensation order acting as an independent sanction. Indeed the 1988 CJA specifiese the reasonable obligations for the application of such a sanction exist and the judge still doesn't apply it. The reparatory measure is passed as an independent sanction in 17% of possible cases in the Crown Court, and in 39% of cases in the Magistrate's Court. In 62% of these cases the compensation order "form of punishment' is not applied because the victims do not claim it." (Criminal Injuries ... 1992)

The reparatory measure as an independent form of sanction raises serious theoretical problems. The significant proportion of criminal experts do not consider that the commission of crimes can be settled by the payment of

reparations saying that the malum is the prejudice necessarily attached to every crime and the reaction to the crime. This conclusion is justified, as the preventative effect, the general and special prevention requires the conscious forming psychological process, which in his intention of avoiding harm in consequence of the reaction can manifest itself in repentance, in feelings of shame, in the shouldering of responsibility before the public. This psychological process produces the preliminary conditions of this 'punishment form'. It follows from this that the application of an explicatly punitive sanction is not necessary in the case of every crime, since the procedure itself, the calling to account can ensure the appropriate, special preventative effect *depending on the perpetrator.* Such a psychological and emotional condition contains sufficient malum for the crimes' perpetrators in question.

The other often put forward argument against the connection between the compensation and the punishment or its application as an independent type of punishment is that the rich can in part or in whole redeem their punishment for in their estimation, a trifling sum. As a result prisons are becoming the living quarters of the poor. There is some truth in this reasoning, but all this simply remains a theoretical issue until the time when the introduction of compensation as punishment is taken seriously and from this point of view, scientific research has not revealed the reality and the probable opportunities either.

Experiences in England have verified that is expedient to maintain the principle of progressivity in proposing the introduction of reparation as an independent sanction. Thus as a first step its' advisable to apply the reparative sanction alongside other punishments and as these are reduced only then to make it an in independent sanction.

It is necessary to mention that not only the victim and the perpetrator must accept the forms at restorative raparative sanction, but rather the whole population or the majority thereof. *The population shall know that the jurisidction system is truly just, if the punishment is not only in proportion to the seriousness of the deed, but rather the interests of the perpetrator and the victim are taken into account. In this way a differentiated and perhaps individualized punishment can be imposed.*

The reparatory measure as 'punishment' would not be applied to those perpetrators, who pose an especially great danger to society, to whom the full rigour of the law must be applied and who can only understand the need to maintain social order 'in their own language'.

The reparative measures are applicable firstly to the perpetrators of crimes of lesser or middling gravity. The last century has proven that legal equality is an inappropriate tool for the solution of social problems, as the equal law applied to the unequal members of society gives rise to or preserves social injustice. Among the prevailing compensatory possibility in the course of penal calling to account we must mention *the compensation of the victim as the cause of stopping the need to punish.*

In the procedural law of many nations ensures the possibility of staying the proceedings, inasmuch as the perpetrator makes amends for the harm or injury caused through his deed. There is an opportunity for such measures for e.g. according to German and Portugese laws. In settled cases it is more favourable not only for the victim but for the whole society, to renounce the punishment. Such a solution is criticized particularly in those nations where there exists the principle of strict legality. (Nagy 1993)

The presumption of innocence in the Hungarian sense of the expression simply means that only the court can establish guilt. Therefore restorative justice was countradictory to the principle of strict legality.

The above may-be true but the principle of strict legality has become obsolete e.g. the presumption of innocence is now used only for decorative purposes and science has long since exchanged it for the prohibition of the presumption of guilt.

Proposals

a.) *It is considered expedient to draw up a system of punishment which would pay considerable attention the perpetrators aspiration of making reparations. Alongside reparations the reduction of the punishment is above all seen to be the feasible route. We consider that the introduction of reparations as an independent form of punishment would only be possible in the possessions of the required expriences.*

b.) *In the same way we recommend the perpetrator's intention to pay compensation at the commencement of the criminal proceedings to be taken into account in the case of certain crimes. The prosecutor should have the right to make a decision concerning the furtheration of the procedure depending on the perpetrator's intention to pay compensation to the victim of this deed.*

2/ The administration of justice outside the criminal procedure. (Reparative, restorative administration of justice).

In the past decades, in developed states in paraticular, there have been an increasing number of signes, that based on the principle of strict liability, the enjoyment of a monopoly position in the jurisdiction system afforded to the state is ineffective in the penal sysytem of bringing offenders to account, reduces authority and is incapable of overcoming the stack of criminal cases brought about by the increase in crime.

Theoretical and practical experts have been searching for the solution ending in the foundation of a more effective system of jurisdiction. *As a result*

of this effective system of jurisdiction. As a result of this ambition the different forms of diversions related to criminal cases came into being - the disciplinary system of bringing to account, the lay jurisdiction and the mediation procedure.

All these share as a common denominator *that alongside or instead of a punitive sanction, rather restorative, reparative measures come to the forefront, or at least these jurisdictional forms join forces with the professional, state courtacitiviy, shouldering the jurisdiction in a significant proportion of cases.* For example, the diversion of criminal cases due to go to court amounted to 40% of cases in England, 46% in Germany and more than 50% in Sweden. (Kertész 1994). The prosecution service and the public 'settle' or administer justice in such a proportion of cases. The other form of diversion is *diversion from the penal route,* i.e. the following: the administration of justice within the scope of the disciplinary procedure, lay procedure and the mediation procedure. On the one hand the diversions, particularly in the case of crimes of lesser or middling degree of gravity and so-called called 'open and shut' cases, serve a preventative purpose and in the significant proportion of cases also adminsiter justice to the victims with the tendency towards compensation. On the other hand *it relieves the state professional tribunals and so they, through more through examinations can make wiser decisions in the more complicated, serious cases which come before them. Consequently, from both the theoretical and practical point of view, it is justifiable to review our jurisdiction system and to decide with which forms of calling to account and to how great a degree the present conditions can be changed.*

From the point of view of protecting the victims' interests, the most effective among the restorative methods of administering justice would appear to be the *mediation process.* The development of this institution which brings a new aspect to the forms of administrating justice outside the criminal procedure, dates back barely two decades. It is perhaps worth mentioning here too, that the essence of the mediation process is the agreement between the victim and the perpetrator. As to the determining of the method and the level of reparation and also reconcilitation, the bringing to life of the satisfactory psychological process with the help of an intermediary, the mediator. The procedure begins with the prosecution or tribural recommending to both the victim and the perpetrator that they achieve a peace settlement through a mediator. Insofar as the recommendation is accepted, the settlement of the conflict between the victim and the perpetrator begins.

If the parties come to an agreement, if they work out a just solution between themselves, corresponding to the laid down conditions, the cirminal case can be thus brought to a close with the handing over of the written document prepared on the basis of the agreement to the prosecution or to the court. If there is not agreement, the case then goes back along the penal route. There is also a certain type of mediation procedure, in which after the reconciliation and

agreement the criminal case proceeds further and eventually the court gives its judgement, but this judgement must be based on the agreement and often simply serves symbolic pruposes.

There are naturally conditions concerning the mediation procedure and it is to be applied mainly in the case of crimes of a lesser or middling degree of gravity and 'out and dry' cases with the agreement of the victim and the perpetrator. But there are also experiments which apply this process in the case of serious, life-endangering or recidivist offences.

The present experiences concerning the mediation process reveal that in this way the victims receive compensation in a far larger proportion (around 80%) than is the case within the bounds of the criminal procedure (around 20%). In addition to this, the procedure's great achievement is that the vast majority of cases result in mutual agreement between the parties and also in reconciliation. (The perpetrator is not longer a 'base, nameless criminal' and the victim is not longer a 'profit-seeking figure'). The victim no longer thinks of the perpetrator with antipathy and rage as a person on whom the court usually imposes an unjustly mild sentence. While as far as the perpetrator is concerned he no longer retains the stigma and the 'deeply unjust' sentence as a souvenir of the jurisdiction system.

The wide application of the non-penal, restorative administration of justice can help in the restoration and development of the authority and honour of the jurisdiction system. The mediation procedure contrary to the criminal procedure protects the victim from the perpetrator's refined lawyer who will turn the unrepresented victim into the accused person. Naturally, this and other similar injuries can be reduced and perhaps even completely avoided within the criminal procedure as well with procedural regulations 'protecting the victims' interests, as has already been recommended in the proceding pages.

In relation to the mediation process the fear *often arises, that this form of bringing to account degrades and devalues the professional administration of justice.* In response to this it can be said that when selecting the cases for mediation, the cases which can only be solved by a judge's sentence within the realm of the criminal procedure are separated out. *In this way neither the penal criminal procedure nor the mediation process can be degraded, concerning the jurisdiction system itself, there is simply a need of acknowledging the differing methods of administering justice and not simply sticking to the professional court's jurisdictional monopoly.* It would appear that in Hungary the introduction of the mediation process could commence, at least by way of scientific experiment.

Naturally, contrary to this, the injury to the principle of formal legal equality (legality) can be mentioned. The essence of the question is whether it complies with the principle of the rule of law, if we apply different laws and different sanctions to identical crimes. There are those who would reply to this with a resounding no, but it is equally possible to give a resounding yes. Such

legal regulations should be introduced which make this possible (Barabás 1993). *We do not need to have as a constitutional principle, the principle of strict legality, the state courts jurisdictional monopoly, the presumption of innocence, we do not need to attach the establishment of guilt to the judgement of the court and then we can also introduce under the flag of the rule of law the mediation process, as the method of bringing to account which best serves the interests of the victims and the potential victims, i.e. the whole society.*

Int the course of the discussion concerning the mediation process, the concept of lay jurisdiction of necessity arises. The acknowledgement in 60s and 70s led to the broadening of lay jurisdiction e.g. the UN Crime Prevention Congress (Kyoto) in 1970 evaluated this method of bringing to account as one of the future, effective juristictional methods. In the course of historical development the lay jurisdiction as imitators of the professional jurisdiction in cases of less serious crimes, has produced results worthly of respect. E.g. the British Magistrate's Court or the former DDR's social sourt. From this the development's main tendency is the turning away this lay, but fundamentally penal form of jurisdiction and thus the different forms of differentiation, mediation, discipliniary proceedings and restorative measures play a greater role.

In the method of bringing to account for crimes of lesser magnitude, the *disciplinary procedure* can play a significant role today as well, within the institutions, undertakings and associations, in the solving of conflicts arising from crime. A fundamental characteristic of such a disciplinary procedure is the reparation of the harm caused and perhaps a disciplinary sanction as well.

In the interest of avoiding abuse it is very important that both the perpetrator and the victim are informed about the possibility of appeal to the state courts. *One of the outstanding roles of the methods of calling to account outside the penal law route would be that the administration of justice for everyday mistakes, blunders and the commission of offences would be rendered humane and effective and that it would ensure the greatest possible amount of compensation for the victim as well as reconciliation between the victim and the perpetrator.*

The methods of administering justice outside the criminal procedure alongside practical considerations must be founded on exactly the same fundamental principles as the penal juristiction. *It is necessary to assert the principle of the rule of law as a guiding principle,* i.e. without legal regulations there can be no kind of bringing to account and it is only possible to use such methods and apply such sanctions as are defined int he regulations.

Constitutionalism is comprehensible in such a way that in forming the new constitution it is necessary to omit those fundamental principles relating to the administration of justice which we have already disapproved of above, i.e. those which may prove to be an obstacle to the introduction of the reparative, restorative methods of administering justice.

If in the developed, civil, democratic states they interpret democratic freedom and the law in such a way that there is also room for the restorative administration of justice, then in Hungary there can be no obstacle as a matter of principle to reforming our jurisdiction system in the same way. (Peters–Aeertsen 1994)

Recommendations

a.) *The new constitution, criminal code and procedural code should provide for the possibility of methods other than the penal bringing to account, i.e. corrective, restorative or however else they formulate it, methods: The methods of the informal system of justice.*

b.) *We recommend the introduction of the mediation process on the principles and experiences laid out above.*

c.) *It must be rendered possible, that also in the course of disciplinary calling to account, it is possible satisfactorily to bring justice in the case of less seriouos crimes by paying attention to the compensation of victims and to the perpetrator's past and his character.*

II. The Problesm of State Compensation being Offered to Victims.

1/ Conceptual questions

Some two thirds of known crimes are those where the victim is a natural person, that is to say the harm or injury caused by the act affects a natural person. Professional literature uses different expressions for the remedying of the harm or injury originating in this way, partyly for the proposal of truly different conditions, but often dependent from these too. Such expressions include compensation, damages, restitution, reparations. It is not the aim of our present study to precisely differentiate those expressions from each other, as any expression is suitable to show that the question concerns the compensation and reparation of finiancial and/or psychological harm and injury brought about by these crimes. That is to say we propose that the assertion of the victim's human rights with the expressions compensation or reparations is just as important as for example, the insurrance of the perpetrator's right to be defended.

2/ International survey

Taking the classical criminal law trend from the beginning and considering it today as well the penal bringing to account is considered as the relationship

between the perpetrator and the state in which the state's courts on the basis of volunatarily committed law infringements pass just judgements according to principles of punishment in proportion to the deed and in this way the administering of justice is achieved because the infringed law has been restored. In this process the victim has no role, as the sate and the court in the place of court completes its justice administering function, totally forgetting that the point of imposing one's own judgement was compensation and reparation and in this way the fate of compensation and reparation lies outside the criminal juristiction system, and finds itself in the realm of the civil litigation procedure – and there it will only remains a possibly be meted out.

As an effect of the positivist criminology trends the classical penal calling to account has been modified to the extent that alongside the deed the perpetrator's character and social circumstances are addressed at the sentencing stage. It has only been in the last two decades that the victim's legal situation has entered the stage and compensation and the reparation of the damage are considered in the administration of justice.

Today the opinion is already videly held that it is not enough to restore the infringed law, nor is it enough to fairly judge the perpetrator with a differentiated or individualised sentence, but rather justice must be done regarding the victims too, the damage or injury caused by the crime must be put to right and must be conpensated for. As a consequence of this charge in opinion, in the majority of European countries and also in other parts of the world (e.g. USA, Canada, Japan), either preliminary or significant measures have already been taken in the interest of ensuring the victims' rights and interests. (Waller 1989, McCormack 1994). But there are still those nations, where "the relationshiip between the victim and the jurisdiction system is rather a source of frustration, deception and annnoyance, than the solution to the victims' problems... The victims are the losers of the crimes and the outcasts of society." (Peters–Aertsen 1994). In reality the victims cannot report to the self-constuted court to compensate themselves, as the state does not concern itself with the compensation of victims and instead of self-jurisdiction decides the case within the scope of the penal jurisdiction system. Today Hungary is still one of these countries. In Hungary only around quarter of the damaged caused by crime is compensated for.

In relation to the compensation of victim the thought often arises that compensation is the state duty's and indeed cannot be, because it would eclipse the individuals readiness to defend himself, his carefulness and would ruin the individual protection of property. It is without doubt that state compensation does have such an effect, but the harm resulting from this cannot be compared with the fear and insecurity, which crime, the possibility or propability of becoming a victim and the lack of remedy for damage or injury arouses in people.

The majority of developed European states have already recognized the fact that the insurrance of victims' interests and rights is not only in the interest of

victims, about one third of the population, but indeed in the interest of society as a whole. *Compensation and reparation does not only mean satisfaction and reconciliation for the victims, but for the potential victims too, i.e. for the whole population.*

The setting up of compensatory systems began at the beginning and middle of the 1960s. Victim self-help, compensatory systems were introduced in New Zealand in 1963, in Great Britain in 1964, then in California in 1965. Today the compensation of victims of violent crimes has generally been adopted in the developed countries. Indeed many of these nations pay out compensation to the victims of crimes against property and traffic offences. (Görgényi 1994, Fujimoto 1994). Alongside the state compensatory system in almost every state, social organs also participate in the financial, legal and psychological support of victims and in the prevention of more people becoming victims. At these organs the financial support is usually referred to as the 'rendering of financial first aid'. In Europe these social organisations joined together to form an international forum, the 'European Forum for the Victim Services'. The Hungarian White Ring Public Benefit Association (Victim Support) is a member of this international regional organisation.

But not only individual states have included the ensuring of victim's rights and the mediation of their injuries in their law-drafting agenda, but the large international organisation like the United Nations' Organisation and the European Council have also taken a stand on the support of victims and have prepared recommendations and different conventions for the member states. The member states have a moral obligations to apply these recommendations in accordance with their criminal policies and opportunities. (UN Declaration 1986; European Council 1987; European Convention 1983, etc.).

3/ Compensation coming from a state fund.

One of the most improtant forms of victim compensation is the reparations coming from the financial fund founded for that very purpose. In individual countries where such a system of compensation operates, the fund's expendable sum is financed from the state budget. Recognizing the victims right to compensation the state distributes instead of the until now x proportion, x + 1 proportion of national income to the claim and possibilities accordingly. Other monies apart from the budget can be paid into the financial fund for the support of victims. E.g. in Sweden every perpetrator must pay 300 swedish korona into this fund. In France these who are sentenced to imprisonment must pay 10% of their wage for the benefit of the victims. It seems that in other places fines or a part of these must be given into the victims' fund. It is also conceivable that a public foundation could be established for the support of victims.

The international organisations also support the idea of state compensation. The UN 1985 Declaration, point 13 states that, 'We must encourage the

establihment strengthening and expansion of national' victims compensation funds. In addition the European Council's international document of 1983, 'European convention on the compensation of the victims of crime', which contains a detailled direction in relation to the compensation for violent crimes.

Such compensation can only take place under certain conditions. These include, the innocence of the victim, whether or not damages are possible from another source and only certain types of victims, in most states the victims of violent crimes, have the right to state compensation. Today the number of nations which pay compensation to the victims of crimes against property and traffic offences is increasing at a great speed.

In about one half of the victims supporting European Forum's member states, the victims of crimes against property and traffic offences are also eligible for state compensation. The British Compensation Board also offers information about the broad circle of those eligible and about the level of compensation. E.g. from April 1, 1991 – March 31, 1992 more than 61400 requests were made and 143.060.069 Font were paid out as compensation. I must add here that the English state always emphasizes that is does not administer compensation out of duty, but rather as an expression of sympathy towards the victims. (Criminal Injuries ... 1992).

Some citizens disapprove state compensation for victims. Many declare that they do not approve of victims receiving compensation from their taxes. People should take out insurance against theft, burglary, accidents and other possible types of damage. The insurance claim is a natural, expedient idea, but the private insurance system in view of the present cost of insurance cover can hardly become general practice. The poorer stratums of society, i.e. around a third of the population presumably cannot afford the kind of insurance which would in the event of a crime of other satisfactory compensation for their financial loss and psychological scares. But financial circusmtances aside, per some people would rather not take out an insurance cover as it is impossible to receive the insured amount in without having to go through a long and tortuous process.

In Hungary for example the victim is interested in whether the police solve the crime or determine the identity of the culprit as then the victim enters into a legal relationship not with the insurer but rather with the perpetrator. We can hardly expected the insurer to advance the compensation and assume responsibility for the litigation against the insolvent perpetrator. The Victims' Foundation is able in certain case to offer advance help to needy victims. This moral obligation above all burdens the state.

Recommendations

After a brief survey of compensation for victims it is expedient to draft our own ideas about the suitable forms of state compensation in the light of the domestic circumstance.

a.) *The setting up of a State Compensation foundation seems justifiable, which from the budget would receive 50% of the set fines. In addition based on the Swedish model the perpetrators would hand over 10% of their monthly wage as simple 'taxation'. It would be possible to fix the lowest payable sun at perhaps 1000 Ft.*
Within the annual budget outlay for the 'assistance of social organisations' a special allowance could be set aside for the 'protection of victims'.

b.) *As regards elilgibility for compensation it would be expedient as a first step to extend it simply to the victims of violent crimes.*

c.) *The other conditions such as the victim's innocence, social position, other organs or the perpetrator's partical compensation should be laid down within precise limits.*

d.) *It would be expedient to lay down the upper and lower limits for the amount of compensation.*

e.) *It is seen to be a question of moral propriety, that the victim receives compensation or partial compensation within a reasonable time so he can get his life back to normal as soon as possible.*

f.) *In the significant proportion of cases state compensation would merely take the form of a state loan until that time when the perpetrator could render compensation or it could be recovered in another way.*

g.) *The state compensation system may also be realised independetly from the new constitution and the reform of criminal law.*

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Резюме

К вопросу о правах жертв и возмещении нанесенного им вреда

Йожеф Виг

В настоящее время во многих развитых странах в рамках уголовного процесса имеется возможность осуществления прав жертв и возмещения нанесенного им преступником вреда и ущерба. Естественно, возмещение возлагается прежде всего на совершителя преступления , но в противном случае становится обязанностью государства. Снижением наказания можно стимулировать преступника к возмещению вреда. Существует и такое решение, когда возмещение вреда является самостоятельным наказанием (Напр., в 1982 г. эта система была введена в Англии). Это решение вызвало множество теоретических проблем, напр., в этом случае ставится под вопрос функция наказания, принцип справедливости наказания.

Привлечение к ответственности за совершение преступления может происходить и вне уголовного процесса. Такими процессуальными возможностями могут быть дисциплинарное привлечение к ответственности, посреднический процесс, суд общественности.

Наиболее значительным изменением, свидетелями которого мы были в последние десятилетия, является возмещение государством вреда, нанесенного потерпевшим или авансирование возмещения.В некоторых странах возмещение получают лишь жертвы насильственных преступлений, в других - также и жертвы транспортных и имущественных преступлений. Но в большинстве стран государство не берет на себя задачу возмещения вреда, причиненного жертвам преступлений, хотя после прекращения самосудов и мщения это должно входить в его обязанности. (К этим странам относится и Венгрия.)

В тех государствах, в которых осуществляется возмещение вреда, часть материальных расходов покрывается за счет штрафа, налога, уплаченного с этой целью совершившим преступление или же за счет заработка осужденного.

Общественные организации защиты жертв преступлений (напр., Белое Кольцо - Общество защиты жертв преступлений) и их международные органы (Европейский Форум на службе жертв преступлений) в значительной степени способствуют осуществлению прав жертв и возмещению нанесенного им вреда или ущерба.

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Heutzutage gibt es Möglichkeit schon in mehreren wirtschaftlich forgeschrittenen Staaten auch innerhalb von dem Strafprozeß zu Geltendmachung der Rechte der Opfer und zu der Entschädigung des durch Täter verursachten Schadens und Unrechts. Natürlich ist der Täter am meisten zum Schadenersatz berufen, aber soweit kann er es nicht, so wird der Schadenersatz, letzten Endes, eine Verpflichtung des Staates. Mit der Verminderung der Strafe kann der Täte zum Schadenersatz bewegt werden. Es gibt auch solche Lösung, daß der schadenersatz als eine selbständige Strafe gilt (z.B. in England wurde dieses System 1982 eingeführt.) Diese Lösung ist aber der Grund vieler theoretischen Probleme, z.B. bei soolchen Fällen kann die Funktion der Strafe das Prinzip der gerechten Strafe in Frage gestellt werden.

Wegen seiner Straftaten kann der Täter auch außerhalb eines Strafprozesses zur Verantwortung gezogen werden. Solche Verfahrensweise sind: auf dem Disziplinarwege zur Verantwortung ziehen, durch Mediationsprozeß zur Verantwortung ziehen, die gesellschaftliche Rechtsprechung.

Die meist bedeutende Veränderung, deren Zeugen wir in den letzten Jahrzehnten sind, ist die staatliche Geltentschädigung des Schadens der Opfer, oder die staatliche Bevorschussung der Entschädigung durch den Täter. In mehreren Ländern auch die Opfer von Vermögensdelikten und Verkehrsdelikten. Aber in der Mehrheit der Länder nimmt der Staat auf sich die Entschädigung der Opfer nicht, obwohl seit der Abschaffung des Genungtuungsnehmens wäre es die Pflicht des Staates (Ungarn gehört auch dazu.)

In den Ländern, wo es staatliche Entschädigung gibt, sichert man einen Teil von den Kosten aus der Geldstrafe, aus der durch die Täter zu diesem Zweck eingezahlten steuer, eventuell aus dem Lohn der Gefangenen.

Die opferschützenden Gesellschaftsvereine (z.B. der Weiße Ring Opferschützende Verein) und deren internationalen Organisationen (Europäisches Forum im Dienst der Opfer) fördern erheblichem Maße die Geltendmachung der Rechte der Opfer und die Entschädigung des verursachten Schadens oder Unrechts.