

CRIME VICTIM IN CONTEXT:
POLITICAL ECONOMY OF DEVELOPMENT
OF VICTIM SERVICE AND VICTIMOLOGY IN JAPAN

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I Introduction

At the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, Austria, 10-17 April 2000, the theme "Offenders and Victims: Accountability and Fairness in the Justice Process" was adopted in its agenda. Its outline is as follows:

"Offenders have several well-entrenched rights, but many surveys have revealed widespread dissatisfaction among their victims. More than half victims around the world feel unhappy about the way police treat them, and many others end up severely traumatized by criminal justice systems, according to the International Crime Victims Survey (ICVS) , which has been carried out in more than 60 countries over the past decade. Victims interviewed by the ICVS commonly stated that police "did not do enough" or "did not recover the goods". About 20 per cent said the police failed to keep them informed about progress in the case.

Many crime victims complain that they are not allowed any say in key decisions made by court, including those about sentencing and parole. Victims are often denied the right to tell in the court a victim impact statement about any physical or emotional damage wrought by the offender.

Whereas offenders' rights are guaranteed by national constitutions and also included in international law, victims' rights are cited in only one international instrument — the UN Declaration supporting justice for the victims of crime and abuse of power, which was adopted by the General Assembly in 1985. In the Declaration, nations agreed to draw up action plans to help victims gain better access to legal proceedings, fair treatment, restitution for damages and general assistance in legal proceedings. The document led to new laws in several nations as well as some local projects to boost victims' rights. Despite many efforts, however, overall progress in victims' rights has been slow. Police and prosecutors in many nations still treat victims with disrespect, keep them in the dark about cases and make vital decisions without them. Unlike offenders, crime victims are rarely given free legal counsel.

A major problem with victims' rights is their potential to clash with those of offenders. The UN Declaration and national constitutional amendments stipulate that victims' rights must not interfere with the offender's right to a fair trial. The most significant conflict between offenders' and victims' rights is that victims are exposed to repeated cross-examination in public about sensitive matters to satisfy offender's right to a fair trial. Some nations have taken steps to protect victims from this kind of problem. The US Supreme Court, for example, recently decided not to reopen rape cases because this could inflict fresh trauma upon the victim.

Some nations have experimented with new methods that aim to satisfy both offenders and victims. In New Zealand, "restorative justice" tries to satisfy victims, offenders and their families by bringing them together in informal meetings to discuss the offence. The object of restorative justice is for offenders to compensate victims for damages, with offender's family sharing responsibility. The method has been successful in juvenile cases, but how it would work with more serious crimes, such as mur-

der or rape, is unclear (United Nations, A/CONF.187/8)."

According to UN research, although victims' rights have increasingly got global concerns, victims are not necessarily satisfied with the present situation. At this moment we must discuss following problems: how victims and their rights are constituted, how victimology is established and has been developed, in what context victims are supported and so on. After examining these problems, we can understand the problematic situations of victim, victimology and victim support.

II Development of Victimology and Victim Support in Japan

1 Status Quo: Official Explanation

The White Paper on Crime 1999 pays special attention to the "Victims of Crime and Criminal Justice." An outline of this is as follows:

"Although the protection/support of victims as well as the prevention of crime and the treatment of offenders are considered as important matters for criminal policy, the latter was usually paid attention to and, in comparison, the former paid less attention to some extent, in the past. However, victims suffer directly from crime. It is important to protect and support these victims of crime even from the viewpoint of maintaining the national trust in the criminal justice system of this country. In other foreign countries, the criminal victim benefit policies have been positively carried out these days by coping with the problems of these victims with various manners. In our country, people have also been recognizing more in recent years that criminal victims have been seriously affected spiritually and economically in addition to their direct damage; and thus people in Japan have a growing interest in victims' matters. Upon this trend, various kinds of programs have been arranged from the viewpoint of

protection/support of criminal victims. For example, public prosecutors offices, among the relevant criminal justice organizations, introduced a new notification system of criminal victims unified on a national wide basis. In any event, such problems of criminal victims can be mentioned as one of the most important themes to be given priority for the time being (Government of Japan, Summary of White Paper on Crime 1999)."

Based on the research carried out by Research and Training Institute, Japanese Ministry of Justice, White Paper concludes as follows:

"The criminal justice system in Japan has tried to accomplish several goals; a reasonable disposition of cases by disclosing the facts of cases and securing rights of suspects/defendants and measures for repletion/strengthening of offenders' treatment for their rehabilitation; while, simultaneously, considering the status and sentiments of victims damaged by offences. It can be said that such measures are related to the facts that the security has been maintained in a good order, as a whole, and that the recovery of damages has been sufficiently realized in the process of criminal proceedings, as shown in actual survey results concerning the recovery of damages of crime. However, recently, heinous offences, like the Subway Sarin case have created a momentum to consider the issues that the victims and their families suffer the various unfavorable effects upon their emotion and life aside from the direct damage of crime, and that the so-called aftermath damages through the subsequent criminal justice process often aggravate the victims' mental damage. Through this special survey, the actual situations concerned with such issues have been clarified. In particular, the bereaved family of homicide, professional negligence resulting in death, and victims of sexual offence had serious influences exerted upon their emotion and life. Also, those who had felt various burdens in the course of cooperation with investigation / trial were not small in number, mainly among victims of sexual offence. In the

future, the current criminal justice system should be improved from the viewpoint of protection / support of victims by grasping with accuracy the actual situation of the damages of crime, as well as trying to put in practice further consideration of the status and sentiments of victims through the whole process of criminal justice (Government of Japan, Summary of White Paper on Crime 1999).”

But the White Paper is filled with interests of criminal justice system. These official explanation is full of opinions on the side of the state. Here state interests and manipulation through state policy are found. I'm afraid that it gives priority to effectiveness and productivity for criminal justice system. How about accountability and fairness? I think that there lacks victims' real viewpoints. Our president Van Dijk warns us as follows:

“A better deal for crime victims can easily be reconciled with a humane and fair treatment of suspects or offenders. In practice, however, the victim's movement in some countries has been hijacked by political groups who advocate more severe punishment of offenders. It is often argued that many crime victims are gratified by the meting out of harsh punishment. If punishment is seen as relevant for the recovery of the victim, a one-sided focus on the victim can provide intellectual ammunition for a harsh, retributive attitude toward offenders. Unlike penal or interactionist victimology, which by definition looks at the actions and interests of both parties, assisted-oriented victimology can be exploited for the purpose of ‘offender bashing.’ Victimology as a field of study must be wary of political manipulation. In addition victims must not studied in purely medical terms. Criminal victimization is not a clinical phenomenon. The key to better understanding of the problem of crime victims is the recognition that they have been wronged by another human being and that their shattered sense of justice must be repaired. Victims must not only be given therapeutic help, they must also be rendered justice (Van Dijk, 1999).”

Japan is not the exception. We must not overlook the fact that victim support policies have been developed hand in hand with legislations toward severe punishment.

2 Historical and Political-Economical Investigation

1) Ill-Developed Victimology in Japan

In Japan victimology has been increasingly paid attention since 1970s and in 1990 Japanese Association of Victimology was established. As Japanese pioneers of victimology tried to dilute victim-censure implications on the occasion of introducing early theories and Japanese victimology strengthened its connection with victim compensation in early years, problems of victim and victim support were not fully discussed and critical perspectives have not grown up.

2) History of Victim Support in Japan

According to Segawa (2000), the history of victim support in Japan can be divided into four periods: Starting Period (1970s), Groping Period (1980s), Expansion Period (1990s) and Legal Tuning-Up Period (at present). Let's see his explanation of each period shortly.

(a) Starting Period (1970s)

In Japan history of victim support started with a movement for legislation of crime-victim benefit system which rose in 1970s. In 1974 Mitsubishi Heavy Industry Building was blasted and in this incident 8 were killed and 380 were injured including unrelated passers-by. As at that time there was no relief measures for victims who met baseless crimes such as bomb terrorism and indiscriminate murder, a necessity for national relief system was cried for. In 1980, with the high tide of circumstances, Crime-Victim Benefit Law was enacted and came into force next year.

(b) Groping Period (1980s)

After enactment and enforcement of Crime-Victim Benefit Law, a tendency for preparation of victim relief measures was on the flow and concerns of people made rapid decline. But in this period there are some notable movement concerning measures for victims of sexual offence. First there emerged support activities for victims of sexual offence with feminist movements for the background. Second concerning victims of sexual offence second victimization and third victimization began to be argued at the end of 1980s. In the face of a present condition of criminal justice which far from recovering damages of victims of sexual offence makes damages larger, the necessity for improvement of crime-victims' legal status in criminal justice had been recognized. With this awareness as a trigger, measures for victims of sexual offence in criminal justice system were improved in 1990s.

(c) Expansion Period (1990s)

In 1990s, provoked by arguments on legal status of crime-victim during latter half of 1980s, movements for victim support were activated. First in 1992 crime-victim counseling room was established within Institute of Difficult Treatment Disease at Tokyo Medical and Dental University as a professional organization which mentally supports crime-victims. Second victim support organizations run by volunteers were established. Based on these organizations in 1998 National Network for Victim Support which consists of 13 organizations was established. Third there emerged movements for forming self-help groups by victims and bereaved families. Fourth structures for victim support by criminal justice systems were reinforced. In the investigation stage in 1996 the National Police Agency adopted Main Principles for Crime-Victim Measures and distributed it to the prefectural police across the country. The Notification System was

introduced and information such as advancement of investigation is offered to victim by investigator in charge. In 1999 Norms for Criminal Investigation was amended and concrete guidelines concerning consideration for victims, notification of information and care for victims were added. In the trial stage Notification System had been introduced at various District Public Prosecutors' Office since 1991 and in 1999 National Standard for Notification System was established.

(d) Legal Tuning-Up Period (at present)

At present legal tuning-up of victim support measures is being promoted. Up to now victim support measures have depended on activities of support groups mainly consisted of volunteers and measures by criminal justice agencies has been limited to discretionary ones within existing laws. In fact our Constitution has no provision concerning victims' rights and our Criminal Procedure Act doesn't place victims as persons concerned. In the face of this problematic situation movements for improvement of victims' legal status has been increasingly activated. In 1999 National Network for Victim Support announced the Declaration of Victims' Rights, declared that helping crime-victims is essentially natural duty of society, published seven following rights which victims have from the first and asserted that they would develop movements towards legislation: i) the right to be treated with fairness; ii) the right to receive information about the progress of the case; iii) the right of compensation; iv) the right to state his/her opinion; v) the right to receive adequate support service; vi) the right to be protected from re-victimization; vii) the right to live in tranquility and safety. At last in May 2000 Victim Protection Act which prescribes following things was enacted: i) complaint period of sex crime is abolished; ii) opportunity is established for victims and bereaved families to state their feelings and opinions; iii) on the occasion of cross-examination, in certain cases, way of video-link or screen can be per-

mitted and so on.

(e) Background of Closing-Up of Victim Support

Movements of victim support in Japan had not enough developed compared with North American and European countries. Four backgrounds of closing-up of victim support are indicated. First concerning effects of international situation in 1985 the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power was adopted and concerns for victims has been internationally increasing. In this situation concerning victims problems such as victim support activities and victim's legal status in criminal procedure have been lively discussed. Second concerning the reflection on past victim support, when at the tenth anniversary of enforcement of Crime-Victim Benefit Law in 1991 what a victim service should be is re-examined, necessities of tackling for enrichment of victim compensation system, full-scale research of victim actual situation and diverse measures for victim support are pointed out. With this as a start private organizations and police began to grope for crime-victim support. Third some shocking crimes made an upsurge of concern on the side of people. Some books which convey hidden voices of victims and bereaved families caused social concerns for victim support. Fourth in recent years researches on victim actual situation have been accumulated in recent years (Segawa, 2000).

I think that closing-up of victim support was motivated by other factors.

III Holographic Projection: Complex Phases of Victim-Related Problems

We can see complex phases of victim-related problems through holographic projection. Let's see some critical opinions.

1 Colonization of Victim

Zedner (1997) alerts us. Victims now attract an unprecedented level of interest, both as a subject of criminological enquiry and focus of criminal justice policy. Far from being simply a compartmentalized topic, victim research has impacted upon every aspect of criminological thinking and profoundly altered our picture of crime by uncovering a vast array of hidden offences, many against the most vulnerable members of society. Political pressure, too has raised the victim's profile, ensuring recognition of victim needs and importance of victim services. Political pressure has vastly expanded the role of compensation, provision of services, and information, and has allowed victims' interests to inform key decisions in the criminal justice process. But at a time when the impulse to punish dominates, it remains doubtful whether reorientation towards the victim will in fact foster reintegrative or reparative ends. The danger is that concern for the victim may be used to justify the pursuit of punitivism in their name and promotion of victim's interests over those of the offender.

2 Double, Opaque and Contradictory Structure of Reality

Ruggiero (1992) develops a critical analysis on problems concerning victim. The reorientation of criminology towards the victim offers an exhausted discipline the opportunity to revitalize itself and restore 'political' legitimacy. In a scenario dominated by 'penological pessimism', many prefer to operate in a safer terrain, that of the victim, which requires neither the exaltation nor stigmatization of the offender. Victimology may be seen as acting as a 'safer belt' for criminology by boosting its role and retrieving its identity. Controversies are defused, differences in schools of thought are flattened: criminology is given back an

artificial cohesion and renewed momentum. The benefits of this unity cannot be measured in terms of immediate results, but are linked to the enhanced status of criminology as an academic discipline and the status of its representatives as criminologists — irrespective of the internal paradigmatic differences.

The terrain of the victim, moreover, offers itself as a particularly attractive issue for the politicians, who can readily express their desire to tackle crime and to improve the quality of life of citizens and voters. In a period of aetiological crisis, of professional and political uncertainty, victimology offers a useful shift of focus and a new field of study.

As to research, the responses of the public are not independent from the interaction with the criminologists who carry out the surveys and from the artificial situation created by them. Little attention is devoted by the realists to the effects of their own presence in the field and how their very work affect the evaluation and definition of crime. It is well known that when sensitizing the public through preventive campaigns, unintended effects may easily result.

It is not enough for criminologists to assume the relations of dominance in victim-offender relations nor simply to present themselves as defender of the weak. Their task is to uncover and explain the complex processes through which 'victims' and 'offenders' are reproduced.

It should be noted that victims can become double victims in that they can be victims of victimology itself. That is they can be victimized by the stereotypes imposed upon them. These stereotypes relate to their alleged incapacity to defend themselves. They also relate to the incapacity for victims to defend themselves as such, the condition of victim being constructed externally and despite them. Subsequently, the victims of victimology are regarded and treated as objects of tutelage, as 'judicial goods' who are required not to 'interfere' in the situations in which they are actors. They are requested to entrust their invio-

lability to external agencies which are normally structured to reproduce principles of dependency and delegation rather than principles of autonomy.

3 Need for a Critical Victimology

According to Walklate (1992), the proposal for a critical victimology stems from a number of concerns: theoretical, methodological and political.

Whereas current conventional and realist victimologies have both advantages and limitations neither to date has fully incorporated an understanding of power relations into their theoretical frameworks. Although each of these positions connects more easily with right-wing views on the one hand and left-wing views on the other, their view of individual victim varies somewhat; one passively adapting, the other consciously aware and to be taken seriously. Both images have been constructed within a structurally defined framework, but one is descriptive and the other more explanatory. Neither of these understandings of structure, however, facilitates an understanding of how individuals actively resist or campaign against their structural conditions. Neither do they fully articulate how these structural conditions have real effects on individual lives. In constructing a critical victimology both of these questions would need to be addressed.

Such a view moves empirical work towards a methodology which is pluralistic in technique and clear in its standpoint. In this way it may be possible to connect different empirical findings, gathered from different standpoints, with one another. Empirically speaking, a number of research techniques are required to uncover the layers of reality which structure both the experience of and response to this particular form of victimization. A critical victimology would also be concerned to document the interconnections between corporate crime, commonsense

understandings of being a victim, and the slippage between these two.

This theoretical position would connect, politically, with a view of citizenship which avoids the trap of talking about rights and obligations as if they were the possession of individuals *per se*. It would allow an appreciation of ongoing role of historical and social processes in which a collective and pluralistic notion of citizenship might be constructed in response to the demands of a variety of social movements (feminism, the gay movement, Greens, etc.). In addition it implies that policy initiatives cannot be constructed solely on the basis of what people think they want. But capitalism has changed at least partly as a result of social struggles of a variety of social movements.

There may be, therefore, more political mileage, for those on the left, in tackling the question of citizenship, not with the same conceptual apparatus as those on the right but by embracing a conceptual apparatus which recognizes that talking individuals seriously means taking the social construction of their actions seriously both synchronically and diachronically.

4 Excluded Voices and Empowered/Privileged Voices

Henry and Milovanovic (1996) make critical discourse analysis from a standpoint of postmodern criminology.

Critical modernists move away from extremes of generalized victim categories, individual, state and society, and instead dramatically expand the number and variety of particularistic categories that are subject to harm. These include the underclass, women, racial and ethnic groups, sexual preference, employees, people with disabilities, etc. Moreover, it raises new victim categories such as abused women, the homeless, consumers and victims of various state crimes. The tendency toward creating new victim categories is particularly evident in realist criminology.

Another impetus to fragmentation and proliferation of the vic-

tim is presented by those who shift to 'actualial justice' and discourse of insurance in the 'risk society.' Here discourses of risk penetrate a range of institutions. The discourse of insurance constitutes society and its various security institutions. It produces social configurations based on particular interests and memberships in risk categories, which in turn affect inclusion and exclusion, hierarchy, solidarity and justice. This sensibility is enhanced by the logic of insurance in particular, which offers solidarity and justice through common interests in the distribution of risk. Risks cut across traditional categories and boundaries based on class, labour and property, blurring and even refiguring those bases of hierarchy and boundary maintenance.

Pluralist, conflict, critical and realist modernists also draw attention to crimes of repression and expand the number of dimensions beyond the traditional property, person and state to include social/prestige and political standing, human rights, crimes against racism, patriarchal oppression, hate, invasions of privacy and autonomy, humiliation and harassment, etc. Crimes here are not only a reduction of a certain class or group standing, but also a restriction, limitation, repression or prevention of that group or its members changing their relative standing.

Radical realism systematically references the 'real' through its expanded notion of victimization. As such, modernist definitions of crime are extreme examples of hegemonic discourse, foundationless yet, as definitions per se, harboring a potential for symbolic violence by excluding the myriad of other voices and thereby empowering or privileging certain voices over others. Thus, although modernist conflict and critical theory has brought to our attention to the specificity of certain victims whose experience of harm remains obscured in the highly generalized categories of classical privileging of individual or the society, they have themselves privileged a selective few.

5 Critical Overview of Problematic Situation in Japan

These are only a part of criticism. But I think that the present situation of victimology and victim support in Japan comes under all these criticisms.

In Japan transitions can be seen in measures to cope with problems concerning victim and victimization: from money supply through mental care to legislation. A present situation of money supply is, however, only a easygoing way of problem solution and provides not enough support to victims. Mental cares have been increasingly recognised as important, but they have a danger to curtail structural problems to individual ones. At last the Victim Protection Act has passed and a few measures have been established and are beginning to be enforced. Most of these measures are, however, only benefits rather than rights.

In addition we have to ascertain the scheme of developments of victim policy. It is said that common dangers to become victim of crime are so prevalent that we all have to take measures by ourselves. In so doing state's responsibility is partly relinquished. Nevertheless state relieves only a part of victims. If state neglected all victims, criminal justice system would fall into crisis. In this occasion state constructs the victim in accordance with needs of state and in comparison with the offender. In so doing it can gather consents of people and develop law and order policy. At last all people including victim, offender and people in general are put into object of control.

So the word "victim" is an extremely flexible and manipulative concept. So we have to beware of the context of being used. It is important to question what the victim is.

IV Conclusion

In Japan concerns of victim services and victimologies have

undergone changes from monetary relieves to mental aftercares, and now to information about processings. Analysing these developments from an aspect of political economy, we can find many problems as follows.

First on monetary relieves although the Crime-Victim Benefit Law was put into operation in 1981, we have to pay attention to its conditions. Victims or their bereaved family have to apply to the police for supplying if they want to get money. But a policeman doesn't have an obligation to inform an existence of this act and right. As most people don't know the existence of the act, I'm afraid that they can't get money. I think that this act has been nothing but "pie in the sky." Scarce sources of revenue may have caused this grave situation.

Second recently mental aftercares have been recognized as important factors of victim services. Many institutions and people such as hospitals, psychologists and community-based organizations have constructed networks for mental aftercares under initiatives of police. But this may conceal structural problems. Moreover these networks may function as surveillance institutions beyond crime prevention.

Third within last few years two notification systems were introduced: both on the level of police and on the level of public prosecutors' office. But in these systems policemen or public prosecutors notice a victim only limited information and a victim doesn't have "right to know" about an advancement of the cases with which he/she was concerned. Even if they have discontents, they can't bring actions in the courts. These systems are formed not as right but as benefit. In addition, as to capital punishment Japanese Ministry of Justice has recently begun to make public also only limited information on execution after execution: not the name and place but only the day, time and number. Information on crime and criminal justice system is strictly controlled.

In conclusion victims have not received sufficient services in

Japan. The most serious problem is that these victim services have been developed not by movements of citizens but by initiatives of criminal justice institutions. As a result developments of victim services contribute to interests of criminal justice system rather than interests of victims. In addition only one sort of victimology which is intimate with a criminal justice policy has been developed in Japan. This has accelerated the development of criminal justice oriented victim service policy. Now we must introduce critical perspectives and create a situation in which many views and policies compete each other.

[Note]

- 1) This monograph is based on the paper titled "Political Economy of Development of Victim Service and Victimology in Japan," and presented at the X International Symposium on Victimology, Beyond Boundaries: Research and Action for the Third Millennium, August 6-11, 2000, Palais des Congres de Montreal, Montreal (Quebec) CANADA.

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