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Problems of Victimization of the Injured Party at the Trial Stage

To ensure the restoration of the victim's violated rights, a legal mechanism must be established that enables their active participation in the justice process and provides the protection of their legitimate interests.

Protecting the rights and interests of natural and legal persons affected by crime is one of the fundamental responsibilities of a legal state.

This paper examines the issue of victimization of the injured party during the judicial review stage. It analyzes the specific features of the implementation of victims' rights as defined by legislation, the strengthening of those rights, and approaches to addressing the imbalance of power between victims and law enforcement authorities. Particular attention is given to challenges arising from the provision of false information or false evidence by victims, as well as the comprehensive phenomenon of victimization. The article also addresses judicial errors and the evolving legal status of the victim in criminal proceedings.

Keywords: *Victimization of the injured party during the judicial review stage; Consequences of providing false information and false evidence; Admissibility of the victim's role and related important issues.*

1. Introduction

This research aims to examine and analyze the victimological problems faced by the injured party during the trial stage. The article provides an in-depth discussion of victimization as a challenge in both the pre-trial and trial phases of criminal proceedings. It explores the specific dynamics of how a victim enters the criminal justice system and the consequences of providing false information or giving false evidence.

The paper also considers the potential causal link between the victim's lifestyle and their victimization, analyzing the extent to which various lifestyle factors influence criminal vulnerability. Particular emphasis is placed on the significance of the victim's role during the evidentiary stage of court proceedings, as well as on the admissibility of evidence related to information provided by the victim.

Special attention is given to the procedural boundaries of the victim's legal status as a participant in the criminal process. In addition to these issues, the article addresses judicial errors and the legal standing of the victim within criminal proceedings.

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2. The Particularities of the Victim's Involvement in the Criminal Justice Process

The victim may become involved in the criminal justice process through several approaches: 1. The victim suffers harm or injury as a result of a crime and personally reports the offense to the relevant authorities, either immediately or at a later stage. 2. The victim has sustained harm, and the incident is reported to the authorities by a third party (such as a parent, relative, healthcare professional, teacher, witness, or other individual). 3. The victim has suffered harm, and the incident comes to the attention of the authorities through their own investigative or procedural actions. 4. The victim (or victims) report the crime themselves or through others to prevent future offenses, ensuring the apprehension and punishment of the offender, and facilitating the recovery of property or compensation.¹

The decision to report a crime is not always solely at the discretion of the victim. Notification may be carried out by the following categories of individuals: Professionals who maintain regular contact with criminal groups, such as sex offenders, drug users, and incarcerated individuals; Individuals released on parole or probation, children, the elderly, and victims of domestic violence; persons who are legally mandated to report evidence of crime, violence, or neglect, including parole officers, teachers, daycare workers, social workers, women's rights advocates, child protection advocates, police officers, physicians, nurses, and mental health providers; journalists, who are also obligated to inform the authorities when victims disclose crimes committed against them.², etc.

The role of law enforcement concerning violent crime is focused on public safety and crime prevention. The primary role of the police is to enforce the law. The first contact of victims with the police usually occurs when they ask for help or complain about it. Complaints or support calls usually result in reporting an incident. Police can interview the victim and witnesses to gain sufficient evidence for the charge.³

A lawyer, whom the victim may independently retain for legal consultation, serves as a liaison between the victim and/or the victim's family and law enforcement agencies. The lawyer facilitates the coordination of resources and the collection of information related to the victim. Acting as an intermediary, the lawyer assists in coordinating services provided by public authorities and private organizations that may be of benefit to the victim. Additionally, the lawyer explains the procedural aspects and specific characteristics of the criminal justice system to the victim.⁴ Lawyers serve the victim to provide them with psychological and other assistance in solving the problem of litigation.

The initial contact between the victim and the justice system typically occurs through interaction either between the victim and a witness or between the victim and the police.

Criminological studies show what can happen in the real world when the victim is ignored or not believed. A rape victim may knock on the stranger's door and ask to call the police; The victim of

¹ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 34.

² Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 37.

³ Ibid., 38.

⁴ Ibid., 39.

the attack may find half-consciousness in a passing alley; Or the teacher may be the first to notice the victim of a shooting at school. In such cases, the primary contact between the victim and the justice system occurs not through the police, but through fellow citizens who are in the right place to help at the right time.⁵

In some cases, a conflict of interest may arise between crime victims and representatives of law enforcement agencies responsible for conducting criminal investigations. The victim typically formulates their position from a personal and emotional perspective, seeking to fulfill needs related to the harm and losses they have suffered. By contrast, representatives of criminal justice institutions operate from an objective and professional standpoint, and in cases of non-compliance or disagreement, a degree of apathy toward the victim's behavior may emerge. According to prevailing legal opinion, the root of this conflict lies in issues of authority and procedural roles, which often arise across all categories of victims and at various stages of the criminal justice process. The rights of victims, as regulated by the relevant provisions of procedural legislation, aim to empower victims and improve communication and coordination between victims and law enforcement bodies. However, despite these legal frameworks, the relationship between victims and the authorities often remains unequal in practice.

Victimologists emphasize that police officers, prosecutors, and judges have repeatedly stated that maintaining an objective and impartial approach in criminal matters is essential to their professional duties. This approach often leads criminal justice officials to view themselves primarily as fact-finders or case resolvers, rather than as assistants or advocates for victims. As a result, this perspective may inadvertently limit the nature and extent of interaction with victims.

For instance, prosecutors handling rape cases tend to focus more on presenting evidence they believe will persuade judges or juries that the offense indeed occurred, rather than emotionally preparing the victim to provide testimony. Criminologists have found that investigators and prosecutors often interpret both their own roles and the victim's role within the criminal justice system from a standpoint that may conflict with the victim's interests, and in some cases, may even cause additional harm to the victim.⁶ At the same time, criminologists observe that the justice system often operates in a manner whereby prosecutors seek to close cases, frequently to avoid taking them to trial, particularly when they are managing heavy caseloads and fail to conduct a thorough investigation from the outset. This practice, which occurs in most cases with few exceptions, often directly contradicts the victim's wishes and may compromise their safety.⁷

Psychologists assert that a sense of personal control over events has a positive impact on the well-being of victims. Criminological research has identified a positive correlation between the effective and objective functioning of the criminal justice system in homicide cases and the psychological well-being of victims. The underlying premise is that victim participation in the criminal process may contribute to the restoration of a sense of control and the improvement of the

⁵ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 41.

⁶ *Ibid.*, 49.

⁷ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 50.

victim's psychological state. However, this is true only insofar as the victim's involvement aligns with their expectations and preferences throughout the process⁸. In addition, it has been established that police responsibility is interpreted in a narrowly defined manner. The public duty doctrine governs the legal relationship between the police, society, and individual citizens. Under this doctrine, law enforcement agencies are not obligated to respond to the specific demands of individual citizens. As the duty is considered to be owed to the public at large, rather than to any particular individual, no individual duty of care is imposed on the police toward private persons.⁹

3. Problems Arising from the Provision of False Information or False Testimony by the Victim

In contrast to genuine statements made by victims, practice reveals the existence of so-called false statements by victims. Victimology pays particular attention to this phenomenon. However, the body of professional literature on false reporting remains limited. For example, very few academic studies have been conducted to determine the frequency or percentage of false information provided by victims. Moreover, the published literature contains scarce research on the broader issue of false testimony.¹⁰ A typical example of providing false information is the case of a 20-year-old college student at the University of Wisconsin-Madison who falsified his kidnapping and reported it to the police. Police soon discovered that he had problems with his girlfriend and, to attract attention, arranged a kidnapping.¹¹ Unfortunately, police are often provided with false rape information.

All these factors affect the investigation and possible litigation. This area requires further examination to ensure the protection of all individuals affected by false allegations, irrespective of the availability or strength of evidence. Victimologists emphasize that, although individuals who make false accusations may attempt to justify their actions by citing mental health issues, such explanations do not negate the criminal nature of their conduct. It is also observed that perpetrators of rape and sexual assault typically do not feel the need to fabricate evidence or provide false testimony, as their offenses often rely on coercion rather than manipulation of legal processes. At the same time, many stakeholders express concern that addressing the issue of false accusations and defamation may be politicized or interpreted through a political lens, which could hinder objective discussion and legal clarity.¹² Both of these factors make it difficult to assess the fact of providing false information. The rape victimization researcher Michelle Anderson assessing the present state of science, notes that personality disorders can cause a man or woman to be deceived by providing a false message about anyone, including a crime. However, no specific empirical study has been conducted on the relationship between personality disorders and providing false testimony about rape to the police.

⁸ Ibid., 50.

⁹ Ibid., 51.

¹⁰ Ibid., 271-272.

¹¹ Ibid., 267.

¹² *Turvey B., Petherick W., Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts, Amsterdam – London, 2009, 272.*

There is no reliable empirical data either past or present regarding the act of giving false testimony in rape cases.¹³

Nevertheless, victimology emphasizes that when a sexual assault report is filed, investigators must often strike a careful balance between supporting the alleged victim and assessing the credibility of the report. Investigators specializing in sex crimes are aware that false reports do occur, though they are not necessarily frequent. False accusations present several complex challenges that must be addressed in a fair and measured manner.

It is also important to recognize that complainants may either tell the complete truth or withhold certain information for a variety of reasons. The discovery that a complainant was untruthful about one aspect of the case does not automatically mean they lied about everything, nor does it necessarily indicate that no assault occurred.

For example, a victim may report a rape, but forensic examination of the alleged crime scene might reveal inconsistencies or a lack of corroborating evidence. This could suggest the report is unfounded, or it might just mean that the victim is unwilling to disclose the actual location of the assault. Identifying and resolving such inconsistencies early in the investigation is crucial both to detect false reports and to ensure that real offenders are held accountable.

However, it is also possible that a victim refuses to revisit or disclose the actual crime scene due to trauma or other personal reasons.¹⁴

The victimology literature discusses the details of the false message, which the investigation should pay attention to. The subject of the investigation should be a case where, to obtain pseudo-victim support, sometimes serious or false injuries are inflicted. There are numerous empirical scenarios described in this context. Individuals may rely on false narratives derived from media reports, witness accounts, or other sources. It is often difficult to assess the reliability or usefulness of such information.

For example, a claim that five attackers assaulted the victim, resulting in multiple injuries, may be questioned if an analysis of the specific circumstances reveals the description to be vague or inconsistent. An incorrect identification of the attack location can also hinder the establishment of factual details. Ultimately, the ability to determine the truth depends on whether the circumstances described in the victim's complaint provide a coherent and verifiable basis for uncovering the actual events.¹⁵

According to American victimologist Jules Epstein, the criminal justice system must take into account the following scenarios: false reports of violent sexual contact when no sexual activity occurred; false claims of coercion in cases where the encounter was, in fact, consensual; and knowingly false accusations against a specific individual when the complainant is aware that someone else was the actual perpetrator.

¹³ Anderson M., *The Legacy of the Prompt Complaint Requirement, Corroboration Requirement, and Cautionary Instructions on Campus Sexual Assault*, Boston University Law Review 84, 2004, 984–986.

¹⁴ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 277–278.

¹⁵ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 278–279.

The investigation must establish clear standards of admissibility. When questioning a complainant, the requirement of *good faith* is an essential standard. The guiding principle should be the use of reliable information applicable to all forms of evidence in the process. Investigative standards must aim to prevent the introduction of false information and protect against harm, following the law.

Timely identification of false accusation evidence by the prosecution ensures that only valid evidence is presented during the pretrial stage, enabling proper cross-examination and further inquiry at later phases of the proceedings.¹⁶

At the investigative stage, challenges may also arise due to police apathy toward the investigation. In many cases, investigators may attempt to justify investigative shortcomings by attributing them to factual inconsistencies in the alleged victim's narrative. However, inconsistencies that have not been properly examined must be regarded with suspicion. Regardless of the eventual outcome, all statements made by the alleged victim must be thoroughly analyzed and, where logical discrepancies are identified, adequately addressed and explained.¹⁷

It is important to note that there are additional factors that may discourage investigators, experts, and other participants in the justice system from identifying and examining false reports. Beyond apathy, the objectivity of an investigation may be influenced by the broader political climate. Fear of political retaliation often results in an unwillingness or inability to properly identify and investigate false allegations.¹⁸ The collection and evaluation of physical evidence presents a particular challenge. During an investigation, physical evidence is often overlooked, first, in terms of its identification and collection, and second, in terms of assessing its consistency with the description of the crime (e.g., as provided through the victim's statement) and the evidence discovered at the scene.¹⁹

4. Specific Characteristics of Victimhood at the Stage of Judicial Proceedings

At the stage of judicial proceedings, the issue of the victim's role becomes particularly relevant, as do questions regarding the admissibility of evidence related to information about the victim. A victimological analysis aimed at identifying victims, the harm and losses they have suffered, as well as establishing the nature of their present condition and their past, can play a decisive role in the decision-making process.²⁰ The role of the victim in the trial begins with the start of the criminal trial, which raises many pressing issues.²¹

¹⁶ Epstein J., True Lies: The Constitutional and Evidentiary Bases for Admitting Prior False Accusation Evidence in Sexual Assault Prosecutions, *Quinnipiac Law Review* No. 24, 2006, 609–658.

¹⁷ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 281–282.

¹⁸ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 282.

¹⁹ McGrath M., False Allegations of Rape and the Criminal Profiler, *The Journal of Behavioral Profiling* 1, No. 3., 2000, 87.

²⁰ Pokorak J., Rape Victims and Prosecutors: The Inevitable Ethical Conflict of De Facto Client/Attorney Relationships, *South Texas Law Review*, Spring, No. 48, 2007, 697–699.

²¹ Gruber A., Victim Wrongs: The Case for a General Criminal Defense Based on Wrongful Victim Behavior in an Era of Victims' Rights, *Temple Law Review*, No. 76, Winter, 2003, 654–657.

At the judicial stage, the admissibility of evidence is one of the most critical issues. In some jurisdictions, prosecutorial consultations with the victim are limited to the stage of plea bargaining. However, there is a contrasting viewpoint on this matter. It has been emphasized that it is even more important for the victim to be actively involved in the judicial proceedings at the trial stage and to participate directly as a key witness. This implies that procedural rules should not be applied in a way that hinders victims from actively participating in the trial process. The victim or the victim's family must have an unequivocal right to testify during the stages of indictment and examination of evidence, as well as during sentencing, even when their testimony holds minimal probative value and may be prejudicial to the defendant.”²² The role of victims is to assist in demonstrating how the events unfolded that resulted in harm. Furthermore, the victim and their representatives must prove that the victim was in the right and did not contribute to the infliction of the harm.²³

The next issue concerns the admissibility of evidence. The question of whether certain evidence or information should be deemed admissible is relevant in any court. However, this does not mean that every such issue is subject solely to the judge's discretion. As victimologists point out, there are specific rules that judges must follow when excluding certain pieces of evidence during the proceedings.²⁴ An important role here is played by the so-called 'rules of privilege' (in this case, the institution of witness immunity). These rules are intended to ensure that evidence considered relevant – such as information that may be obtained from individuals with immunity – does not mislead the court or divert attention from the core issues of the case. Under these rules, a victim may possess important victimological evidence that holds significant value for the case. However, such individuals may be exempt from testifying about certain facts, or from testifying altogether, based on a range of privileges. For example, the defendant's attorney may request access to all past treatment records of the victims to assess whether they may be making false statements due to various medical conditions.”²⁵

Victimologists also rely on the guidelines established by the United States Supreme Court, which shape the approach taken by courts. According to these guidelines, the judge must consider and determine:

- Whether the records are necessary to ensure a full response and protection.
- Whether the records possess evidentiary value;
- Whether the confidentiality of the records, along with the reasonable expectation and nature of privacy, is preserved;
- Whether the content of the records is based on any discriminatory beliefs or prejudices, and whether it affects the dignity and safety of the declarant.

²² Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam, London, 2009, 476

²³ Simmons R., *Private Criminal Justice*, Wake Forest Law Review No. 47, Winter, 2007, 315.

²⁴ Murphy P., *Murphy on Evidence*, 10th ed. New York: Oxford University Press, 2008, 109.

²⁵ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 477-478.

Only after carefully considering each of these factors may a judge authorize the disclosure of such records to the defendant.²⁶ The need for such rules is due to the fact that some judges rely on intuition, which is very dangerous. Unfortunately, such an approach does not always ensure that the case is conducted objectively because cognitive research has shown that judges can be biased and make mistakes, as do other participants in the process.²⁷ In some cases, an intuitive approach may work well, but in some cases can lead to false and unfair consequences.²⁸

In the administration of justice, the legislative regulation of victim protection is of critical importance. For example, under U.S. federal law, the introduction of any evidence regarding the victim's prior sexual behavior or sexual predisposition is strictly prohibited in court, except where such evidence falls within specifically enumerated exceptions. In all cases, information concerning victims must be collected, examined, and questioned in an objective manner.²⁹

Objective consideration of the application for impact on the victim (victim) is very important when carrying out justice. Live victims of crime indicate post-traumatic stress disorder, depression, sleep disturbance, alienation, fear, and other symptoms. These consequences of the crime are not always clear during the trial for various reasons, or may not be clearly expressed during the trial. Subsequently, some courts recognize the obvious necessity that the judge is aware of this impact.³⁰ As correctly noted in victimological literature, the role of the victim in the adjudication practices within criminal proceedings is undergoing an evolution. Therefore, advocates for victims' rights are calling for more active participation of victims in the criminal justice process.³¹

Victimology emphasizes the admissibility of information provided by victims and their relatives. In this regard, an illustrative case is the United States Supreme Court's invalidation of a Maryland statute that required consideration of the victim's statement during the imposition of a death sentence.

The Court found that in 1983, John Booth and his accomplice committed a robbery. Fearing identification by neighbors, Booth also murdered them. During the trial, relatives of the victims testified about the emotions they experienced following the crime. However, the Supreme Court ruled such testimony inadmissible. The court found that the detailed portrayal of the family's grief served solely to arouse the jury's emotions concerning the offence.

The Court concluded that permitting such emotionally charged statements is contrary to the reasoned and impartial decision-making required in sentencing. It held that victim impact evidence reflecting the family's emotional trauma and the personal characteristics of the victims was inappropriate in the context of capital sentencing. The Court explained that such evidence may bear no

²⁶ Ibid., 478.

²⁷ Guthrie C., Rachlinski J., Wistrich A., *Blinking on the Bench: How Judges Decide Cases*, Cornell Law Review No. 93, 2007, 43.

²⁸ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 190.

²⁹ Ibid., 482.

³⁰ Ibid., 483.

³¹ Myers B., Green E., *The Prejudicial Nature of Victim Impact Statements*, Psychology, Public Policy, and Law, Vol. 10, 2004, 492–511.

relevance to the defendant's culpability and could result in a sentence based on information unknown to the defendant at the time of the offense.³²

5. Determining the Relevant Circumstances Concerning the Victim

Determining the pre-crime circumstances and their interactions that create relationships between the victim and the perpetrator is often a difficult task. The victim may be chosen specifically or situationally by the offender. In all cases, the function of opportunity is associated with characteristics of place, time, and the offender. Forensic victimologists recognize that analyzing the dynamics of interpersonal relationships can serve as a foundation for various investigative actions and for responding to judicial inquiries. To this end, it is essential to examine the true and precise role that the victim played in the events leading to the outcome in question. In each case, multiple circumstances may arise that require examination or exclusion, and the final evidentiary picture may not always be immediately apparent.”³³

The behavior of the victim can be not only wrong, but also immoral. The victim's immorality is the key to clarifying the problem of the causes of a particular crime and the mechanism of criminal behavior. In such cases, the more significant or provocative the victim's role in the commission of the crime, the more carefully the conduct of the offender must be assessed. Under criminal law, this circumstance may justify mitigation of the sentence or, in certain instances, exemption from punishment. "The conduct of the victim may be improper and immoral. The victim's immorality can serve as a key to understanding the causative factors of a specific crime and the mechanism of the criminal behavior. In such cases, the more significant or provocative the victim's role in the crime, the more carefully the perpetrator's actions must be assessed. In criminal law, this circumstance may lead to mitigation of punishment or, in some cases, exemption from criminal liability.”³⁴

Victimological theory identifies the determination of the 'victim's contribution to blame' in the commission of a crime as a significant factor whereby the individual becomes a victim as a result of their own conduct. In such cases, reference to the 'victim's blame' is made only in a conditional or qualified sense. 'Blame' and 'victim's blame' are related but not identical concepts. The use of this term refers to a specific form of behavior exhibited by the victim as one of the participants in the incident, rather than to their liability in the criminal law sense.³⁵

When evaluating a specific case, particular emphasis is placed on analyzing the relationship between the victim and the offender. Of special relevance in this context are lifestyle-related factors, which may influence the victim's exposure to harm and shape the dynamics of victimization. As noted by American scholars, the causal link between a victim's lifestyle and their subsequent victimization is not always straightforward. This is largely due to the difficulty in determining the extent to which

³² Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 485-486.

³³ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 165.

³⁴ Tsulaia Z., *Criminology, General and Private Part*, Tbilisi, 2005, 127. (in Georgian)

³⁵ Ibid., 126-127.

particular lifestyle factors contribute to the emergence of a criminal situation. Generally, lifestyle factors may affect the victim in three key ways: by provoking conflict with the offender; by placing the victim in frequent proximity to offenders or individuals predisposed to criminal behavior; or by signaling the victim's vulnerability to the offender. To gain a deeper understanding of lifestyle's influence on victimization, it is beneficial to examine the theoretical foundations that inform victim lifestyle models.”³⁶ According to the 'lifestyle' theory, an individual's victimization stems from their lifestyle; In other words, the behavior or way of life of the victim is linked to the criminal or immoral actions of others. For example, a person employed at a night bar who frequently interacts with intoxicated patrons may become a victim of physical violence following a contentious exchange. Similarly, an individual walking alone at night in an unfamiliar or high-risk urban area may be subjected to robbery, assault, bodily harm, or sexual violence.

Victimological literature reflects differences in lifestyle factors through patterns of social habits, such as work routines, place of residence, leisure activities, and institutional affiliations. The likelihood of victimization increases when individuals engage in high-risk behavior, such as traveling to conflict zones. Accordingly, certain lifestyles may elevate the risk of victimization, such as those involving alcoholism, drug abuse, prostitution, or frequent presence in dangerous environments at night.³⁷

The main argument for this approach is the position that the dynamics of criminal action cannot be fully understood by taking only into account the characteristics of the defendant, but should also include checking the role of the victim.³⁸ As noted, in the assessment of the victim, consideration must be given to any provocative, accommodating, or causative factors in the victim's interaction with the perpetrator, meaning that the concept of 'functional responsibility for the offense' must be taken into account.³⁹ As is known, the interpretation of the perpetrator is based on the classical accessory theory. In contrast, German legal doctrine has developed a new functional theory, which is supported by M. Turava. According to this theory, an 'assistant' is not merely a helper, but qualifies as a functional co-perpetrator.⁴⁰ In this context, if this behavior encourages to commit a crime, he turns out to be a functional co-perpetrator.

Considering the lifestyle of the victim, it is important to define the victim's relationship with the perpetrator. Such behaviors typically manifest in cases involving sexual harassment by strangers, domestic homicides, workplace-related conflicts, and incidents connected to political or religious tensions. The relationship between the victim and the offender is especially pronounced in everyday

³⁶ *Turvey B., Petherick W.*, Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts, Amsterdam – London, 2009, 169.

³⁷ *Shalikashvili M.*, Criminology, Third Edition, Tbilisi, 2017, 194-199, see broadly. *Shalikashvili M., Tandilashvili Kh, Bakhtadze U.*, Victimization Science, Science on Crime Victims, Second Filled and Recycled Edition, Sulkhan-Saba Orbeliani University Publishing, Tbilisi, 2023, 48-61. (in Georgian).

³⁸ *Rock P.*, Theoretical Perspectives on Victimization, In Handbook on Victims and Victimology, edited by *Walklate S.*, Portland, OR: Willian Publishing, 2007, 42.

³⁹ *Schafer S.*, The Victim and His Criminal: A Study in Functional Responsibility, New York: Random House, 1968, 55.

⁴⁰ *Turava M.*, Criminal Law, General Part Overview, Ninth Edition, Tbilisi, 2013, 337-339 (in Georgian).

situations.⁴¹ As B. Turvey and V. Petherick rightly point out, a victim's history of interaction or involvement with the offender may increase both the impact of certain forms of harm and the likelihood of such harm occurring. For the forensic victimologist, identifying and examining this history is an essential part of any assessment, as it can provide both investigative leads and potential suspects.”⁴²

Motivation may arise from a variety of factors, each contingent upon the surrounding circumstances. A particular victim may serve as the reason for the commission of a crime, or the victim can be selected based on other criteria as the object chosen within the offender's fantasy to fit a verbal or behavioral script. It is the responsibility of the criminal profiling expert to determine which criterion was applied in choosing the victim in a specific case. This is most effectively established by comparing the offender's motives and identifying who the victim truly was in the offender's cognitive and emotional framework. This line of inquiry raises several key questions: Was the act premeditated at the time of its commission? Why was the victim killed or, conversely, why were they left alive?⁴³, etc. To accurately determine the impact of the lifestyle of a particular victim, it is necessary to assess the harm inflicted on him/her in the context of the victim's lifestyle and personality traits. To say that the lifestyle has influenced the dynamics of the victim-offender, it must be potentially dangerous in the sense that its existence can affect the possibility of harm.⁴⁴

The direction of the investigation largely depends on the impact of the lifestyle of the victim based on the relations between the victims, as well as the victims and the perpetrators. This classification allows us to get information about the victim and his/her personality.⁴⁵ According to the classification proposed by scholars, low-impact victims are those who are rarely exposed to the risk of harm or loss. Low-risk victims are individuals who have no real reason to become victims of violent crime. They are particularly cautious about their safety, are well-acquainted with their surroundings, and are generally inaccessible to violent offenders.

Medium-impact victims are those who are occasionally exposed to the risk of harm or loss. Some individuals may have a low inherent level of risk, but their circumstances increase the presence of risk factors. High-impact victims are those who are regularly exposed to the risk of harm or loss. They are especially vulnerable and accessible to offenders⁴⁶. Following this definition, it is important to independently assess the impact of lifestyle and incidental (accidental) factors. A forensic victimologist should avoid constructing risk profiles that combine the assessment of these two

⁴¹ Turvey B., *Criminal Profiling: An Introduction to Behavioral Evidence Analysis*, 3rd ed. San Diego: Elsevier Science, 2008, 285.

⁴² Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 172.

⁴³ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 176.

⁴⁴ Ibid., 184.

⁴⁵ Ibid., 196.

⁴⁶ Burgess A., Hazelwood R., *The Victim's Perspective*, In *Practical Aspects of Rape Investigation: A Multidisciplinary Approach*, 3rd ed., edited by Hazelwood R. and Burgess A., Boca Raton, FL: CRC Press, 2001, 29-46.

elements without clear differentiation. Such a practice leads to distorted conclusions, both in evaluating the victim and in interpreting their testimony.

As rightly noted by B. Tervey and V. Peterik, studying the dynamics of the relationship between a particular victim and offender is key to addressing a number of crucial investigative and forensic questions. This includes examining the role that the victim may have played in their own victimization. One way to analyze this is by assessing the level of vulnerability of the victim, which refers to the extent of protective barriers that the offender had to overcome to commit harm.

As previously mentioned, lifestyle factors may influence victimization in three general ways: by creating direct conflict with the offender; by increasing the victim's constant proximity to offenders or crime-prone individuals; and by enabling the offender to become aware of the victim's vulnerability.⁴⁷

The situational impact on the victim is of practical significance. B. Turvey and V. Petherick focus on victim characteristics that emerge and manifest within specific situations. In this regard, several questions arise that are important to consider in the context of a particular criminal case: 1. What are the specific features of situational harm, and do the actions of the victim stem from the influence of individuals or circumstances related to the specific crime? 2. What is the distinction between so-called sequential and simultaneous victims? 3. What key aspects should be taken into account when determining the situational influence on the victim? 4. Is there any other relevant information about the victim beyond what is provided by forensic victimology? 5. Does the extent of harm depend on the degree of violence inflicted?⁴⁸

6. Judicial errors and the victim's status

In the modern procedural literature, the issue of the influence of judicial errors is widely discussed. In particular, biased review of evidence can affect the system of allegations that resulting in the defendant becoming a victim of the system. Scientists analyze their argument in two ways. First and foremost, the objectives of restorative justice take precedence over formal dogmatic analysis. As previously noted, subjecting a knowingly innocent person to criminal liability or unlawfully initiating a criminal case constitutes a distinct form of miscarriage of justice, one in which a judge or jury finds an individual guilty despite their actual innocence. The issue is not merely whether these defendants are victims of the system, but rather the extent of harm they have suffered, whether the error has been acknowledged, and whether it has been rectified.⁴⁹ Second, the theory of the relevance of court decisions is being developed. As previously noted, we distinguish between a scientific fact and a legal truth. As we have learned, legal truth is determined through court decisions, which may later be revised or overturned – this reflects the dynamic nature of the law. In contrast, a scientific fact is established through the scientific method and exists independently of the judiciary. No legal

⁴⁷ Turvey B., Petherick W., *Forensic Victimology, Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 200.

⁴⁸ Turvey B., Petherick W., *Forensic Victimology. Examining Violent Crime Victims in Investigative and Legal Contexts*, Amsterdam – London, 2009, 226.

⁴⁹ *Ibid.*, 510.

conclusion can alter a scientific fact; it can only determine its admissibility or relevance within a legal context.

However, the opposite often occurs in practice.⁵⁰ Evidence is seen by law and science in a slightly different way, as well as the application of logic and perception of social values.

Among the factors that lead to wrongful convictions are: 1. Incorrect identification by eyewitnesses, 2. Misrepresentation of evidence. 3. Misinterpretation of evidence. 4. False confessions. 5. False testimony by jailhouse” informants. 6. Ineffective or incompetent defense. 7. Prosecutorial misconduct.⁵¹

Two factors are particularly emphasized: the misidentification of a witness and the role of a forensic expert in making unjustified judgments.

It is believed that the improper identification of a witness is because jurors pay more attention to eyewitness testimonies than other types of evidence. However, they focus on the fact that eyewitnesses are often mistaken. Here must be observed: 1. Accuracy of memories over time, 2. Stress, violence, and concentration on gun use, 3. Witness Trust, 4. Inaccuracy of the witness's attention, 5. Racial identification. It is also noted that the jury does not know that the eyewitness's testimony is inaccurate. Victimists also focus on the role of forensic experts in making unjustified judgments. In this regard, special attention is paid to the objectivity of the examination. The form of the answer may be the cancellation of the judgment related to the testimony of the expert and the increase in the resource expense of the party involved.⁵²

7. Conclusion

Finally, it can be concluded that the victim's active participation in the trial is very important, as it helps to protect their legitimate interests and ensures an objective decision by the court. Also, the paper focuses on the consequences caused by false information and testimonies. To gain support, the pseudo-victim sometimes inflicts serious and false injuries on themselves. The article highlights the relevance of issues arising when criminal justice professionals perceive themselves more as crime-solvers than as supporters of victims, which consequently limits their interaction with victims.

It emphasizes the importance of addressing the admissibility of evidence related to information about the victim. Particular attention is paid to the victim's participation during the trial stage, underlining the significance of their involvement as a key witness in the proceedings.

It is noted that there may be a causal link between the victim's lifestyle and their victimization, though this connection is not always clear. This uncertainty stems from the difficulty in determining which lifestyle factors influence the criminal situation. The article underscores the importance of examining the nature of the relationship between the victim and the accused before the crime.

Finally, the article discusses factors that may hinder the administration of justice and the delivery of a fair verdict.

⁵⁰ Ibid., 533.

⁵¹ Ibid., 524.

⁵² Ibid., 535.

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