

# Improvement of the Criminal Victim Assistance System

Yingying Li \*

Department of Law, Dalian Ocean University, Dalian Liaoning, 116000, China

\* Corresponding author Email: liyingying20160334@163.com

---

**Abstract:** Improving China's criminal victim assistance system is an important part of protecting the rights and interests of criminal victims, realizing the inherent value of the legal system, protecting human rights, and is also a necessary condition for further strengthening China's legal system. This paper discusses the concept and characteristics of criminal victims, as well as the rescue work for crime victims. It studies and analyzes the construction and operation of China's criminal victim system, and discusses legal formality, protection of victim rights, rescue, fundraising, procedural issues, and how to improve China's criminal victim assistance system. This paper adopts comparative analysis and literature analysis methods to analyze the current situation and shortcomings of the existing system by analyzing criminal assistance to victims, and to draw on mature and positive experiences in foreign criminal victim legislation to propose suggestions for improving China's criminal victim assistance system.

**Keywords:** Criminal Victim; Criminal Victim Assistance System; Improvement Suggestions.

---

## 1. Introduction

The criminal victim assistance system means that when victims are harmed by criminal activities and cannot obtain compensation from the offender or other liable persons, the state should provide various forms of material compensation and psychological comfort to the victims to reduce the harm suffered as much as possible. This system is a common practice in many countries' criminal justice policies to protect criminal victims. In criminal punishment, the victims "shed both blood and tears." In order to protect the legitimate rights and interests of criminals, a series of special protections have been given to them, while victims have been marginalized. With the popularity of victimology, this phenomenon has attracted attention from various countries. Based on the trend, the awareness of victim protection has been strengthened in various countries, and the criminal victim assistance system has been established, which has also received attention from many international organizations and has issued a series of conventions and declarations. Driven by international trends and practical needs, China's criminal victim assistance system has gradually been established. However, there are still some shortcomings. Currently, China is committed to building a socialist harmonious society, and improving the criminal victim assistance system is particularly important. Improving the criminal victim assistance system has drawn increasing attention from countries and regions worldwide. Studying and improving the criminal victim assistance system has important practical significance in the specific historical context of building a harmonious society.

Establishing and improving China's criminal victim assistance system is an indispensable part of the judicial assistance system, an important aspect of human rights protection, and a need to alleviate social conflicts, maintain social stability, and build a harmonious society. It helps to protect human rights, protect and improve people's livelihoods, promote social fairness, justice, harmony, and stability, and also helps to establish China's judicial relief system and further reflect the humanistic care of the judiciary.

## 2. The Status and Insufficiencies of Criminal Victim Assistance in China

Initially, criminal victim assistance in China started during the practice of judiciary, which later transformed into an institutional approach. At first, assistance was provided at the local level for victims of crimes, through a long period of practice, experience was continuously accumulated and the system was continuously improved, forming certain conditions that led to the establishment of a criminal victim assistance system at the national level, with legislation enacted to standardize its procedures and endow it with legal force, enabling better effectiveness in practice. However, the current development of China's criminal victim assistance system is still insufficient, despite some progress made, as many difficulties remain. This chapter mainly focuses on the legislative and judicial aspects to elaborate on China's current criminal victim assistance system, to summarize its areas that still need improvement, and lay a foundation for its further enhancement.

### 2.1. The Current Status of China's Criminal Victim Assistance System

In terms of legislation, the current laws and regulations in China have clearly defined the status of victims in criminal cases and strengthened the protection of their rights, such as economic losses and other compensation. The Criminal Law and Criminal Procedure Law in China reflect the assistance provided to victims in criminal cases. The current Criminal Procedure Law stipulates that if a victim of material damage caused by a crime dies or loses legal capacity, they have the right to initiate an incidental civil action, or their legal representative or close relative can initiate a civil action. In 2004, the amendment to the Constitution added a provision stating that "the state respects and protects human rights," introducing for the first time the concept of "human rights" and establishing basic human rights as a constitutional principle. China's Criminal Law also stipulates that victims of criminal cases have the right to demand compensation for their losses.

China's system of assisting victims in criminal cases has

been continuously improved and developed since 2004 when pilot programs were initiated in various regions to provide assistance to victims. After accumulating and enriching experiences through continuous efforts, in March 2009, the Central Political and Legal Affairs Commission and seven other ministries jointly issued the "Several Opinions on Carrying out Work to Help Victims in Criminal Cases" (referred to as the "Opinions" below). This document provides systematic provisions for China's system of assisting victims in criminal cases, serving as a legal basis for the promotion of the system nationwide, as a national policy to promote further progress in the assistance provided to victims in criminal cases. In 2014, the state promulgated the "Opinions on Establishing and Improving the National Judicial Assistance System (Trial)" (referred to as the "Judicial Assistance Opinion" below), which further refined and integrated the work of assisting victims in criminal cases, standardized various aspects of this work, providing guidance for the assistance work of victims in criminal cases across the country. It played a significant role in promoting the protection of the legitimate rights and interests of victims of criminal cases and demonstrating China's judicial fairness and justice. In 2015, the state promulgated the "Opinions on Establishing and Improving the National Judicial Assistance System (Trial)," which detailed the contents of the system for assisting victims in criminal cases and elevated this work to a new level. In 2016, the state summarized the above two documents and issued a series of documents, such as "Opinions of the Supreme People's Court on Strengthening and Regulating the Work of National Judicial Assistance by People's Courts," providing strong support for the progress of assistance provided to victims in criminal cases in the judicial field. In 2019, the state successively promulgated normative documents such as the "Provisions on the Trial Procedure for People's Courts to Handle National Judicial Assistance Cases (Trial)," "Style of Documents for People's Courts to Provide National Judicial Assistance (Trial)," and "Working Rules of the Judicial Assistance Committee of the Supreme People's Court (Trial)," which provide strong policy guidance for the assistance provided to victims in criminal cases.

## **2.2. The Issues with China's Criminal Victim Assistance System**

### **2.2.1. The Unified Legislation is not Sufficiently Perfected**

Although a series of policies and regulations issued by various government departments have played a significant role in promoting the relief work for criminal victims, providing policy guidance for the standardization of China's criminal victim relief system, the vast territory and diverse ethnic groups in China have also resulted in great differences in the situations of different regions. Moreover, not every region has established a criminal victim relief system, and the legitimate rights and interests of most criminal victims in many areas have still not been effectively protected under the law. Although some regions have begun to implement criminal victim relief systems, the situation varies widely due to different economic and cultural levels. For example, there are discrepancies in the assistance targets, with some regions expanding the scope of criminal victims to include special vulnerable groups and providing assistance to them, which leads to confusion between criminal victim relief and general national social welfare activities. In contrast, some areas have limited the scope of criminal victims, resulting in a failure to

provide timely assistance to victims within the scope of relief. Furthermore, there is no unified standard for relief assistance and forms of relief, and there exists a phenomenon of non-standardized relief procedures. Therefore, it is urgent for the country to establish a unified legislation to protect the legitimate rights and interests of criminal victims in all regions who currently lack sufficient protection and access to national policies.

### **2.2.2. The Source of Relief Funds is not Guaranteed**

The criminal victim relief system aims to provide material assistance to criminal victims and their close relatives, and therefore, relief funds occupy an extremely important position in this system. In China, the criminal victim relief system is not perfect, and legislation regarding relief funds is also lacking, resulting in the persistent problem of insufficient relief funds during the implementation of the criminal victim relief system. Although some areas have special relief funds, the reliability of such funds is often inadequate, and there are frequent interruptions caused by the increasing number of criminal victims. The national "Opinions" and "Judicial Assistance Opinions" only state that local governments and related departments make arrangements while encouraging individuals and organizations to actively make donations, but there is no clear regulation regarding the source of relief funds for criminal victims. With the rapid development of the economy, social conflicts frequently occur, and the financial departments of local governments at all levels face difficult situations in the implementation and budgeting of criminal victim relief funds. While advocating that the people and groups actively contribute their own social power by donating to serve as one of the sources of criminal victim relief funds is a good method to raise relief funds, it has only achieved a mild relief effect, and the donation procedure is not perfect, while lacking a standardized supervision mechanism, which presents certain obstacles in the implementation of donations by the people and social organizations.

At present, the national relief funds are the main source of relief funds for the criminal victim relief system, while there are also many problems with the relief funds in various regions. The issue of relief funds occupies an extremely important position within the entire criminal victim relief system; thus, the country should attach great importance to providing comprehensive legal protection for the source of relief funds.

### **2.2.3. The Form of Relief is Single**

Currently, the relief system for criminal victims in China mainly provides material assistance to the victims and their close relatives. However, the harm caused by the offender to the victim and their close relatives is not only economic but also multi-faceted. According to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, victims can obtain various forms of economic assistance from government, social welfare, and other institutions, and relief is not limited to material assistance but also includes physical and psychological therapy and social assistance. In contrast to this, many countries have more comprehensive relief methods for crime victims, which take into account the victim's loss from multiple perspectives and provide all-round relief. Therefore, China should take useful foreign experiences and continuously improve its relief methods for criminal victims. The Judicial Assistance Opinions indicate that the assistance provided to victims is for urgent difficulties

faced by them and is not a long-term solution, so economic assistance is commonly used for criminal victims in China. While monetary relief is convenient, fast, and provides temporary relief, it is not comprehensive enough, and it cannot heal the psychological and emotional trauma suffered by criminal victims. However, providing relief for the economic, physical, and psychological injuries suffered by criminal victims is not easy, and an all-round effort from all members of society is needed to provide comprehensive relief for criminal victims.

#### **2.2.4. The Relief Standards Exhibit Differences**

In real life, victims of different criminal cases often receive different standards of compensation due to the particular nature of the cases. Under the state-led relief model, there is currently no unified national standard, but each province and city independently formulate relief standards based on their own financial situation and local economic development level. In pilot areas, the highest and lowest standards are set based on the local actual economic level, but in practice, there is no clear regulation on when and for which victims the maximum or minimum limit should be applied, and it is entirely at the discretion of the relevant relief agency. Furthermore, there are differences in national relief standards in different regions. In terms of the source of relief funds, the current common practice is for the total amount of funds to be determined by the local government's finance within a certain range, and relief organizations provide assistance to victims within this range. As for the relief funds for victims, apart from clear regulations, they are determined by relief agencies themselves. Essentially, this results in relative inequality of relief standards in different areas. In summary, relief standards in developed areas are higher than those in underdeveloped areas, resulting in an unfair phenomenon of "the same life with different costs, the same injury with different compensation".

### **3. The Conception of Improving the Relief System for Victims of Criminal Cases in China is Proposed in this Study**

#### **3.1. Enhancing National-level Legislation and Standardizing it is Essential to Improve the Relief System for Victims of Criminal Cases in China**

To address the difficult issues in the relief of victims of criminal acts, it is necessary to establish a unified and sound national compensation system for victims of criminal cases at the level of national legislation. China has already promulgated the "State Compensation Law", which clearly defines the scope of application, amount of compensation, and relevant procedures for compensation. The implementation of the "State Compensation Law" has produced good legal effects over the years. The main problem with the relief of victims of criminal cases is the lack of a unified regional system, leading to instability in relief work. Based on actual problems, we should refer to the legislative and practical experience of state compensation, promulgate laws applicable to all regions of the country, and establish a unified relief system for victims of criminal acts.

The stable economic development of our country provides a good material basis for establishing a sound relief system for victims of criminal cases. Since 2009, the pilot work of

assisting crime victims has accumulated a wealth of experience, providing valuable practical experience for legislative work. At the same time, the legislative system for the relief of victims of criminal cases has been supported by a large number of scholars at home and abroad through years of theoretical research. Therefore, with the support of the existing system, we can summarize years of practical experience and lessons learned and establish a relief system for victims of criminal cases at the national legislative level, so that it can be jointly supported by the national compensation system to provide judicial assistance for the country.

#### **3.2. Expanding the Sources of Relief Funds**

Currently, the two main sources of funds for criminal relief are government special funds and special funds for relief of criminal victims. To establish a unified national relief system for victims of criminal cases, two methods can be used: one is for the state to provide fiscal special funds, and the other is to establish a national charity fund to accept donations from all sectors of society. This can effectively expand the sources of national relief funds and provide more effective assistance to victims of criminal acts. In terms of relief methods, first, a unified national relief fund can be allocated based on the actual amount of state compensation applicable in each region, and different distribution methods can be adopted according to different situations. For example, in some cases, the victim is temporarily in financial difficulty due to criminal acts and the compensation can be paid in a lump sum. In some cases, victims suffer serious criminal injuries leading to disabilities and require long-term treatment. In this situation, compensation can be paid in stages in order to provide continuous relief to the victim.

#### **3.3. Enriching Relief Forms**

In China, the relief forms for victims of crime are single and mostly limited to economic relief. Methods to handle psychological trauma and problems of victims through criminal proceedings are rare. There is also no good connection between the follow-up work of one-time economic relief and other forms of relief. The relief of criminal victims is ultimately a social problem, and only by integrating various social assistance resources can we do a good job in assisting victims of crime. The author believes that first, we should strengthen special assistance for special victims of crimes and provide various targeted assistance services to ensure the effectiveness of relief. Special victims of crimes mainly refer to vulnerable groups in society, including women, children, persons with disabilities, the elderly, and victims of sexual crimes. Special assistance includes special psychological counseling for children and women, education for vulnerable groups, protection of their labor rights and interests, assistance for the elderly, and so on. Secondly, it is necessary to establish a sound social assistance system. While establishing a national assistance system, we should also strengthen social assistance for crime victims, actively encourage the insurance industry and public welfare organizations to provide assistance to crime victims. As long as we can provide various services such as assistance, donation, medical treatment, psychological counseling, etc., we can incorporate the relief process for victims of crime into the social assistance system for victims of crime. Only by complementing each other can these systems fully protect victims of crime.

### 3.4. To Improve Relief Standards

The scientific and rational establishment of relief standards is a key link in fully leveraging the role of the relief system. In the vast majority of countries and regions, the primary form of relief is monetary aid, which is the simplest method. Currently, China faces the problem of inconsistent relief fund standards, and it should promptly determine and unify relief standards through legislation. However, it should also refer to the consumption level in different regions and not mechanically maintain uniform standards. Therefore, the author believes that the country should establish a relatively certain upper and lower limit, standardize legislation, and then independent relief standard ranges can be established by various levels of government as needed.

## 4. Drawing on Legislative Experience from Countries Around the World

Italian comparative jurist Sacco once said: "learning and imitation are the vital factors in understanding the process of legal change". New Zealand for the first time after the victim compensation system, many countries and regions have formulated the relevant criminal victim rescue system, China's criminal victim rescue system is relatively late, there are still many deficiencies, so pay attention to the current system, and according to the actual situation of China appropriate foreign advanced experience.

Some countries or regions have established criminal victim assistance or compensation systems, and most of these countries or regions have set up relevant laws to give authority to the legislative name, so as to solve the relevant problems of criminal victim assistance from the most fundamental point. For example, Germany and the United Kingdom have enacted the Criminal Injury Compensation Law, South Korea enacted the Assistance Law of Criminal Victim and Japan enacted the Payment Law of Criminal Victim, which is the first law on victim compensation in Asia; the United States enacted the Criminal Victim Law and adopted the legislative model of the victim law; and France stipulated the victim state assistance or compensation in the Code of Criminal Procedure.

Many countries designate the target of assistance as victims who are seriously harmed from criminal crimes and their lives and health. The objects of the victim compensation system in Japan for the victims only include the victims who suffer serious injuries to their life and health due to the infringement of intentional crime, and the compensation for the victims is one-time and stipulated for a certain period of time. France and Switzerland have a wide range of relatively wide, and the rescue system is applicable to all criminals. There are also some countries that are not limited to the victims. New Zealand and the United States have specific targets of assistance, including victims injured by violent crimes, criminal arrest, criminal arrest, assistance, or law enforcement personnel.

In terms of the relief conditions, most countries regard whether the victim can report the case in time, whether the victim can cooperate with the judicial organs to prosecute the criminals, and when the victim commits a crime as the restriction conditions of the assistance. Countries, such as the United States, Britain and Germany, must exempt their victims from liability. Many countries also take into account the financial situation of the victims and their families, such as the Netherlands, based on financial losses that the victims

or their close relatives cannot afford. The legal systems of France, Germany, Hong Kong, China and other countries and regions have all provided assistance to the rights of the victims. These countries and regions attach great importance to the establishment of various assistance systems, such as victim compensation, state assistance and social security. For example, in addition to providing economic assistance to the victims, the United States also fully protects the legitimate rights and interests of the victims through social assistance and services. At present, the United States has established more than 2,000 victim relief organizations, to provide a variety of relief, relief and services for the victims.

## 5. Conclusion

The improvement of the criminal victim relief system ensures the protection of human rights and the maintenance of their basic legal interests. Unlike other judicial aids, the criminal victim system is the victim's last hope after being subject to unlawful treatment and requires institutional support and social participation and cooperation. The current global judicial trend is to safeguard human rights and impose lighter punishments. In this new situation, we should attach great importance to the relief of criminal victims, putting it on par with social fairness, justice, and harmonious development. We should not only respect the legitimate rights and interests of the offenders but also protect those of the victims. Improving the criminal victim relief system is not only the mainstream trend in today's world judiciary but also a powerful guarantee for maintaining social harmony and stability.

## Acknowledgments

First of all, I would like to thank my tutor Professor Qu Yanan for his guidance and support for this article. Teacher Qu's strict requirements allow me to grow and harvest continuously. Secondly, I would like to thank my parents for their support that allowed me to overcome the difficulties. Finally, I would like to thank my classmates and thank you for your company.

## References

- [1] Zhang Long, Guo Xiaoyu. Current situation and improvement of China's criminal victim relief system. *China Justice*, 2015 (11): 88-91.
- [2] Zhang Yunxiao, Jiang Xiaoping. Analysis on the construction of China's criminal victim relief procedures. *China Justice*, 2018 (06): 31-35.
- [3] Fang Jun. Criminal victim relief: problems and prospects. *Crime Research*, 2020(04):37-43.
- [4] Zhang Yunxiao. The normative situation and analysis of China's criminal victim relief system. *Journal of Heilongjiang Provincial Party School of Political Science and Law*, 2019 (04): 139-144.
- [5] Yan Yu, Huang Huasheng. Reflections on legislative examination of China's criminal victim relief in the process of rule of law. *Social Scientists*, 2018(11):123-129.
- [6] Shi Wen. Reflections on the Jiang Ge case: study on the criminal victim relief system. *Journal of Hebei North College (Social Science)*, 2018,34(5).
- [7] Ding Feiran, Cai Rangta. Survey research on the psychological assistance system for criminal victims and their close relatives. *Journal of Anhui Police College*, 2021,20(05):30-38.

- [8] Huang Huasheng, Xu Shimin. Review and prospect of China's criminal victim relief system. *Journal of Jiangxi University of Science and Technology*, 2019(01):43-48.
- [9] Sun Wenhong, Liu Lin. On the improvement of China's criminal victim relief system. *Journal of Shenyang Cadre*, 2017, 19 (02): 25-26.
- [10] Pan Zhaodong, Wang Xuanzi. Discussion on the national relief system for criminal victims. *Tianzhong Academic Journal*, 2018,33(04):43-47.