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Abstract :

This study seeks to examine the role of the victim in criminal proceedings by investigating the definition established in Algerian legislation and juxtaposing it with the terminology used in both criminal and special laws. The primary issue pertains to the uncertainty in ascertaining the victim's status and rights, regardless of whether the victim is direct, indirect, or a legal entity. The results show that the Algerian lawmaker has given the victim a big role, such as letting them start a public prosecution, become a civil party, and take part in the case. The action's two goals—getting money and helping to find the truth—have made the victim's position unclear. This means that the guarantees of a fair trial need to be more precise.

Keywords: Victim; Civil Claim; Compensation; Ambiguity.

الملخص :

تهدف هذه الدراسة إلى تحليل مركز الضحية في الخصومة الجزائية عبر تعقب مفهومه في التشريع الجزائري، ومقارنته بالمصطلحات الواردة في القوانين الجنائية والخاصة، حيث تبرز الإشكالية الأساسية المتمثلة في الغموض الذي يحيط بتحديد صفة الضحية وحقوقه، سواء كان مباشراً أو غير مباشر أو شخصية معنوية، حيث أظهر البحث أن المشرع الجزائري منح الضحية دوراً بارزاً من خلال تمكينه من تحريك الدعوى العمومية والتأسيس كطرف مدني والمشاركة في الإجراءات، إلا أن ازدواجية أهداف الدعوى بين التعويض والمساهمة في الوصول إلى الحقيقة جعلت مركزه ملتبساً، مما يستدعي ضبط توازن أكبر ضمن ضمانات المحاكمة العادلة.

الكلمات المفتاحية: ضحية، ادعاء مدني، تعويض، غموض

1. Introduction

Criminal justice is one of the most important tools that the modern state uses to protect rights and freedoms and keep the peace by punishing criminals and stopping crime. However, modern concern has not been limited to the accused; it has progressively encompassed the victim, who endures direct harm due to the crime. This change has made the victim's role in criminal cases more complicated, leading to a lot of disagreement and discussion at the doctrinal, legislative, and judicial levels.

According to Article 3 of the Code of Criminal Procedure, a victim is anyone who has been directly and personally harmed by a crime. Nonetheless, despite the clarity of this legislative definition, it has not addressed the myriad issues associated with the concept of the victim in the criminal context—whether in differentiating between direct and indirect victims, or between natural and legal entities. Moreover, additional complexities have arisen regarding the nature of the civil action that the victim may initiate in the criminal courts, as well as the degree to which such an action is autonomous or supplementary to the public prosecution. These questions underscore the overarching difficulty of clarifying the victim's procedural status relative to that of the public prosecutor and the accused in criminal litigation.

In light of this, the main research question is: how well has the Algerian legislator set up a clear and fair legal status for the victim in criminal cases, while also making sure that it fits with the principles of criminal justice and protects the rights of other parties? This question is especially important because there is a lot of confusion about the victim's legal position, both in terms of what the concept means and what the victim's role is in criminal proceedings.

In this context, the current study aims to examine the legal framework regulating the victim's status in Algerian legislation and to elucidate the ambiguities that pertain to it. It also aims to assess the efficacy of the rights and mechanisms instituted by law, along with their appropriateness for attaining a balanced framework.

The study employs a critical analytical methodology to pertinent legal texts and judicial interpretations, assessing their alignment with the core principles of criminal justice. It also looks at some foreign laws to find similarities and

differences, and to figure out the best ways to adapt them to the Algerian situation.

The research is divided into two main parts so that it can cover the topic fully. The first part looks into the unclear legal basis for the idea of a victim by looking at the terms and definitions used in Algerian law and by making a distinction between different types of victims, such as direct and indirect victims and natural and legal persons. The second part looks at the doubts about the victim's legal action and their role in criminal cases by looking at the duality of civil claims and putting the victim in relation to both the public prosecutor and the accused.

2. Ambiguities Concerning the Legal Basis of the Concept

One of the most important things about the uncertainty surrounding the victim's role in criminal cases is the word "victim" itself. This is because it has many layers and meanings. For example, you might see overlaps or groups of victims who were harmed by the same act.

2.1 Ambiguity Resulting from the Multiplicity of Legal Terminology

The lawmaker has used a variety of words in different laws to refer to the victim. This sometimes makes it hard to clearly define the idea of the victim, and other times it makes things very unclear. This study will examine the application of this term within criminal codifications, and subsequently within special legislation.

2.1.1 At the Level of Criminal Codifications

The Penal Code (1-1) and the Code of Criminal Procedure (1-2) are the two main laws that make up the substantive and procedural parts of the legislator's criminal policy for stopping and fighting crime. Both use different words to talk about the person who is hurt by the crime.

2.1.2 At the Level of Criminal Law

We have looked at the Criminal Code and found that the lawmaker does not use one word to refer to the victim. The phrase "al-majni 'alayh" (the aggrieved party) is used in the wording of some provisions, such as Articles 276, 344, and 380. It is important to note that all of the other provisions are about crimes against life, liberty, or dignity, and are considered felonies. Article 380, on the other hand, punishes taking advantage of a child's needs by classifying it as a misdemeanor involving property. The majni 'alayh is the person who is directly harmed by the crime, no matter what it is. This is the person who the crime is done to.

At other times, the lawmaker uses the word "al-maḍrūr," which means "the injured party." For example, Article 339 makes adultery a crime and says in its last paragraph, "Proceedings shall not be initiated except upon the complaint of the injured spouse." Article 369, which deals with theft between family members, ancestors, and in-laws, says that no legal action can be taken unless the person who was hurt files a complaint.

However, the term that has become the legislator's preferred choice, especially in later changes to the Criminal Code, is "al-ḍāḥiyya" (the victim). This is in Article 293 bis, which deals with the crime of child abduction (which was repealed by Law No. 20-15 of 30 December 2020 on the prevention and suppression of abduction offenses); Article 303 bis 4, which deals with the crime of human trafficking (which was also repealed, by Law No. 23-04 of 7 May 2023 on the prevention and suppression of human trafficking); and Article 303 bis 20, which makes it a crime to take tissues and cells from a person without permission.

The legislator also uses the same word in many places where the victim's personal rights are more important, especially when giving the victim the power to forgive the offender. This usage is found in Articles 298 (defamation), 299 (insult), 303 bis 1 (the principles of the inviolability of private life), 329 bis (the failure to hand over a minor subject to a custody decision), 330 (family abandonment), 331 (refusal to provide court-ordered maintenance), and 442 (contraventions involving violence and unintentional injury).

Consequently, it is evident that, through successive amendments to the Penal Code, the legislator has progressively favored the term "victim" over "injured party" or "harmed party." This change is in line with the language used in international agreements, but it doesn't completely get rid of the terms that were used before.

2.1.3 At the Level of the New Code of Criminal Procedure (Law No. 25-14 of 03/08/2025)

A review of the Code of Criminal Procedure indicates that the legislator does not utilize a uniform term to identify the passive party in a crime. The term "harmed party" first appears in paragraph two of Article 2, which says, "The harmed party may also initiate this action in accordance with the conditions established by law." Also, Article 3 of the same Code says that the harmed party is anyone who has been hurt directly by the crime.

The legislator kept the term "civil plaintiff" from the old Code of Criminal Procedure and used it again in Articles 150, 152, 153, 180, 522, and 523. The lawmaker also added the word "victim" to Articles 47 and 695.

From the context of these uses, it seems that the word "victim" is most often used when the person who was harmed is in front of the Public Prosecutor. When this person takes steps to get paid and helps to prove the crime, they become a civil plaintiff or civil party, depending on what they do. At this point, the person goes from being a passive victim who only has the right to protection to an active participant in the criminal case.

2.1.4 At the Level of Special Legislation

In addition to the Penal Code and the Code of Criminal Procedure, there are also specific laws that deal with the criminal world that talk about some things that have to do with the passive party in a crime, which is the victim. The laws about mandatory car insurance and paying for damages, as well as the decree about paying for victims of terrorism, are very important here.

2.1.5 At the Level of the Law on Compulsory Insurance and Compensation for Automobile Accidents

The lawmaker passed Ordinance No. 74-15, which was changed by Law No. 88-31, which deals with the system of insurance and compensation for car accidents. This ordinance makes it clear that the lawmaker used the word "victim" to mean anyone who is hurt physically, financially, or morally because of an accident caused by a vehicle.

However, the legislator did not restrict the right to compensation to the direct victim alone; rather, this right was extended to beneficiaries, who may be considered indirect victims in cases where the direct victim has died. In this regard, Article 8, paragraph one, provides: *"If someone gets hurt in a car accident, everyone who was hurt or their family members can get money. The victim or their beneficiaries can choose to receive the compensation as an annuity or as a death benefit in cash, for those beneficiaries who are over the age of majority, according to the terms set out in the annex."*

From the foregoing article, it is evident that compensation for automobile accidents is granted to the victim or to his or her rightful beneficiaries, and is limited to reparation for bodily injury. The basis of such compensation rests on the principle of risk (Ali, 2015, p. 269). This is demonstrated by the legislator's decision to provide compensation to victims through a special insurance fund,

even in cases where the perpetrator of the accident remains unidentified or is in an unlawful situation (Zabih, 2019, p. 121).

2.1.6 At the Level of the Decree on Compensation for Victims of Terrorism

On February 13, 1999, the legislator passed Executive Decree No. 99-47, which set up payments for people who are hurt or lose property because of terrorist acts or counter-terrorism operations, as well as for their rightful beneficiaries. The legislator used the word "victim" in this decree and defined it in Article 2 as "anyone who is hurt or killed by a terrorist or terrorist group."

It is clear from this wording that the legislator limited the idea of a victim to the person who is directly harmed by the terrorist act and limited the types of damages that can be claimed to bodily or material damages, leaving out moral damages. But the right to compensation didn't just apply to the direct victim; it also applied to beneficiaries, who could be seen as indirect victims if the direct victim dies. According to Article 12 of the decree, the following people are beneficiaries: the deceased's spouse, children under 19 years old (or under 21 if they are in school or vocational training), and foster children. Children of any age are also included if they can't work because of a disability or chronic illness (Amirish, 2011, p. 181).

This overview demonstrates that the legislator utilized various terms to characterize the adverse aspects of crime and allowed the involvement of additional parties in criminal proceedings related to the same offense, including beneficiaries and associations. This multiplicity has created a problem of confusion, especially when it comes to the different layers and levels of the idea of the victim in criminal cases.

22. Ambiguity Regarding the Layers of the Concept of the Victim in National Law

The multiplicity of victims and the participation of several parties in criminal proceedings in pursuit of compensation for the same criminal incident create ambiguity in two respects:

- Determining the precise meaning of the concept of the victim;
- Identifying the persons who may legitimately be accorded victim status.

2.2.1 Defining the Concept of the Victim

The word "victim" usually means anyone who has been hurt by a crime or any other kind of incident. So, the idea is broad enough to include people who have been harmed by crimes, natural disasters, and even society as a whole (Hamed,

1989, p. 09). In the realm of criminal law, the victim is specifically defined as the individual who has been harmed by the offense, whether that harm is represented by society—viewed as the injured party in a particular interest—or by an individual or group of individuals who have endured harm as a result of the criminal act. This is the exact technical meaning of the word.

According to Article 2, paragraph 2 of the Code of Criminal Procedure, anyone who has been hurt by a crime can start public proceedings. This provision suggests that the presence of harm is a fundamental prerequisite for obtaining the legal designation of victim. One act can hurt many people at once, which is called harm. Even so, Article 3 of the same Code says that the harm that makes someone a victim must be direct and personal. The interpretation of these requirements is relative, depending on the type and circumstances of the crime. For example, the "personal" aspect of harm in cases of intentional or unintentional injury pertains to the individual who sustained physical harm, whereas in instances of theft, it pertains to the proprietor of the stolen property. In contrast, the interpretation of the "direct" nature of harm should be narrowly construed; hence, in cases of bodily injury, the victim may seek compensation solely for physical harm, excluding material loss.

The range of compensable harm has, nonetheless, progressively broadened. The last paragraph of Article 4 of the Code of Criminal Procedure states that civil liability claims for any kind of damage—material, physical, or moral—are allowed as long as they are based on the facts of the crime. However, this change has only affected the direct victim, since the main goal is to balance the needs of the criminal case in proving guilt with those of the civil case in making things right.

This solution has also allowed people who are further away from the crime, and sometimes even strangers, to make claims. For instance, criminal courts have acknowledged the claims of relatives of a crime victim regarding bodily integrity, despite the absence of physical injury to themselves. In this case, there is a difference between the direct victim and the injured party. The latter may encompass the victim's family or may be confined to the victim exclusively. The injured party (*mujni 'alayh*) is therefore the direct victim upon whom the criminal act has directly impacted. The term "victim," on the other hand, is broader and includes people who have been hurt indirectly by the crime's effects. The term "victim" encompasses both the direct victim and extends further; the defining criterion for the direct victim is the possession of a right

safeguarded by criminal law, whereas the defining criterion for the injured party is the actual harm endured.

It can be inferred that the essential criterion for attaining the status of civil plaintiff is not merely the occurrence of a crime against an individual, but rather the infliction of personal harm resulting from the commission of that crime (Muttalib, 2006, p. 22). In this regard, Article 147 of the Code of Criminal Procedure states: "Anyone who has been hurt by a felony or misdemeanor that is not already in court can file a civil lawsuit by giving a complaint to the right investigating judge." This rule is in line with Article 3 of the same Code, which says, "Anyone who has personally suffered direct harm from a crime has the right to file a civil suit to get money for the damage. "

In this case, the civil plaintiff is the person who was hurt and is suing for damages. The term "victim" includes anyone who has suffered material, social, or moral harm as a direct result of a crime. This may encompass the majni 'alayh (the individual directly affected by the criminal act), their legal heirs or dependents who have incurred harm due to the crime, and potentially groups or organizations to which the individual is affiliated, including trade unions and associations. This results in the identification of individuals legally acknowledged as victims.

2.2.2 Identifying Persons Entitled to Victim Status

The law gives the status of victim to both natural persons and legal entities. This means that both types of people can file a civil suit. This makes us wonder what their legal standing is in criminal cases.

A. The Individual Victim

In this context, it is essential to differentiate between the direct victim, the individual upon whom the crime was perpetrated, and the indirect victim, who, although not the primary target of the offense, nonetheless incurred harm due to its execution.

B. The Direct Victim

According to Article 3 of the Code of Criminal Procedure, a direct victim is someone who has been hurt directly and personally by the crime. As a result, the direct victim is the main right-holder who can start a civil action. They can choose to settle, drop the case, or even not file a claim at all.

But the direct victim is not always the same as the injured party (majni 'alayh). The injured party is the one who has the legal right that the incriminating

provision protects and the one who was directly harmed by the crime. In contrast, the status of victim is only established when an individual suffers direct personal harm manifesting as the criminal outcome (Hosni, 2017, p. 137).

If the crime hurts someone else besides the person who was hurt, that person is considered a victim. For example, the husband of a woman who was slandered, the father of a girl who was raped, or the lessee or usufructuary of stolen property. Even though they weren't the ones who were hurt, each of these people has the right to file a civil suit (Hosni, 2017, p. 192).

C. The Indirect Victim

The term "indirect victim" usually means heirs, like the spouse, children, or parents. If the deceased had commenced a civil action prior to their death, their heirs inherit this status, as death does not serve as a basis for the termination of the civil action but merely as a reason for the suspension of proceedings (Hosni, 2017, p. 302).

The issue arises when the decedent passes away prior to initiating the action. In these situations, there are three possible outcomes:

In the first scenario, if the crime happened before the person died and caused them physical harm or damage to property that required medical care, the heir can pursue the decedent's civil action because it is now part of the estate (Stéfani, Levasseur, & Bouloc, 1999, pp. 185-270). On the other hand, if the harm was moral, like in cases of defamation or insult, the common view in legal doctrine is that the heir cannot file a civil suit. This stance is predicated on the assumption that the decedent's omission to initiate the action during their lifetime signifies an implicit relinquishment of the right.

Second Hypothesis: Commission of a Crime Leading to the Death of the Deceased

This hypothesis is pertinent in instances of homicide or assault resulting in death without the intention to kill. In these cases, the heir is seen as a victim and can ask for money for the personal harm that the death of the deceased caused. This harm may be material, like losing financial support from family, or moral (Hosni, 2017, p. 305), like the mental pain that comes from the death. The legal importance of calling this claim a personal action is that the heir must prove not only that he or she is the victim's successor, but also what harm the victim actually suffered. If there are more than one heir, each one has the right to full compensation for the injury they suffered. Because of this, it is not okay to give them all the same amount of money.

Third Hypothesis: Commission of a Crime After the Death of the Deceased

This happens when someone insults or defames the memory of the dead person. The general rule is that a crime only happens when the attack on the memory of the dead person directly hurts the heir's honor. If this kind of personal harm can be proven, the heir is seen as a victim and can file a personal claim.

2.2.3 The Victim as a Legal Entity

The category of victims that may be recognized as legal entities primarily includes associations and unions.

A. Associations

Law No. 90-31 of 4 December 1990 controls the creation and structure of associations. It is well established that an association has the right to constitute itself as a civil party if it suffers direct personal harm, whether affecting its financial assets or damaging its reputation and standing. There is, however, a question about whether an association can file civil claims to protect the common good for which it was formed or to protect the individual interests of its members.

Article 16 of the Associations Law mentioned above clearly allows civil claims to protect the interests of the group. Certain special laws also allow these kinds of actions, in addition to this general rule. These laws include:

- (Article 12 of Law No 89-02, 1989) allows consumer protection groups to file civil lawsuits for moral harm they have suffered (Boudali, 2006, p. 682). For these claims to be heard in civil or criminal court, the violation must have been a breach of a legal duty, whether it was done on purpose or not, that harmed shared interests. In a similar vein, Article 65 of Law No. 04-02, which governs commercial practices (Law No 04-02, 2004), empowers these associations to file actions in civil or criminal courts, and even to commence public proceedings, to seek redress against any economic agent who contravenes the stipulations of commercial practice law.
- (Article 36 of Law No 03-10, 2003, p. 13) gives environmental protection groups the right to sue anyone who harms the environment in criminal court. Furthermore, Article 37 grants them the complete spectrum of rights acknowledged for civil parties concerning actions that inflict direct or indirect harm to the collective interests they are constituted to protect.

- (Law No 90-29, 1990, p. 1652) Article 74 gives any legally formed group the right to assert the rights of a civil party in cases of violations of urban planning and development laws if their statutes say that they want to improve living conditions and protect the environment.
- (Law No 98-04, 1998) Article 71 lets any group whose rules say they want to protect cultural property become a civil party if someone breaks this law.

Law No. 90-31 on Associations gives associations the right to bring civil actions to protect the personal interests of their members. Likewise, Article 23 of Law No. 89-02 on Consumer Protection permits consumer protection associations to establish themselves as civil parties before any judicial entity to pursue compensation for individual material or moral damages incurred by one or more consumers. Article 38 of Law No. 03-10 on Environmental Protection has a similar rule, but the association must get a written mandate from at least two natural persons first.

B. Trade Unions

A trade union is a legal entity, which means it can handle its own money and has dignity and standing. This allows it to file a civil lawsuit in civil or criminal court if it is harmed directly by a crime that affects its assets or reputation.

But if the crime hurts the union's collective interests, it can sue for damages to its professional interests. It is important to clearly and precisely define these professional interests and set them apart from both individual interests and the general public interest. For example, if a crime hurts the personal interests of one of the union's members, like stealing from their job or spreading false information about them, only the injured member has the right to ask for compensation. The union has no standing in this case. The public prosecutor, as the representative of the public interest, can start legal action if the crime harms the public interest, like selling goods for more than the legal limit or not paying taxes (Hosni, 2017, pp. 302-301).

Some of the most important crimes that hurt workers' professional interests and for which a union can legally file a claim are: practicing a profession without the right license, engaging in unfair competition, and not taking safety precautions to protect workers who are union members (Hosni, 2017, pp. 302-301).

This system, which could result in an increase in civil claims, has nevertheless been constrained by specific limitations. Civil actions aimed at safeguarding collective interests—such as those initiated by trade unions or associations—are

governed by distinct conditions from those outlined in Articles 2, 3, and 4 of the Code of Criminal Procedure. Such claims are permissible based on mere indirect harm, and in certain instances, even in the absence of tangible damage.

Generally, the goal of these claims is to help people who are direct victims and can't act on their own, or to strengthen criminal policy in certain areas, like road safety or the fight against terrorism. But this makes it hard to figure out who the "true victim" or "direct victim" really is.

3. Ambiguity Concerning the Nature of the Victim's Claim and Position in Proceedings

The lawmaker has given the injured party a big part to play in criminal cases by letting them file a civil claim in the criminal court, making them a civil party. But this setup makes it unclear what the legal nature of such a role is. This party is sometimes seen as just an accessory because their claim can't be separated from the public prosecution and depends on its outcome. This description creates two types of ambiguity: first, it makes it unclear what kind of legal claim the victim has, and second, it makes it unclear what role the victim plays in the case.

3.1 Ambiguity Regarding the Legal Nature of the Victim's Claim

The ability to file a civil claim in criminal court raises questions about the exact nature and extent of the victim's role in criminal cases. What effect does their participation have on how the case goes? What is the real legal nature of the civil claim? Is it mostly a way to get paid, or is it more of a way to help find the truth and get back at someone?

3.1.1 The Action for Compensation: Material or Moral?

Article 3 of the Code of Criminal Procedure outlines the criteria for the admissibility of the victim's civil claim, characterizing it as a pursuit of compensation for damages incurred as a result of the crime.

Nonetheless, criminal jurisprudence has historically acknowledged the victim's right and ability to initiate public prosecution in instances where the public prosecutor either abstains from action or refuses to proceed. Legal scholars have characterized the civil claim as having a "dual nature" as a result of this. Even though it is really just one claim, the action for compensation can sometimes be seen as one that seeks to punish the offender (*vindicatif*).

A question may arise: is this action limited exclusively to material compensation? The answer is no. The victim's action is not inherently

financial; instead, it may assume a moral dimension. In these instances, the victim may designate themselves as a civil party not only to pursue reparation for damages but also to bolster the public prosecution by instigating proceedings and ensuring their voice is acknowledged during hearings.

This goal still stands even when the victim asks for money from the criminal judge who is in charge of civil cases. As a result, victims want more than just money for their pain and damages; they also want moral reparation, which means finding out what caused the harm and the truth.

This argument is supported by the development of compensation systems that have added new ways for victims to get money, like the involvement of insurance companies, compensation funds for victims of terrorist crimes, and the road accident victims' compensation fund. With these systems, the perpetrator no longer directly pays the victim; instead, the money comes from a cooperative or solidarity-based system. This is a big win for victims because their rights are no longer based on the offender's financial situation, which could be unknown or bankrupt.

On the other hand, insurers and compensation funds can now go after identified and solvent offenders in order to get back the money they paid.

3.2 The Action for Truth-Seeking and Attribution of Responsibility: The Repressive Dimension of the Civil Action

The law allows the victim to become a civil party and start public proceedings to get compensation, especially when criminal courts can't decide on compensation issues (like when the State is responsible for damage caused by its employees while they are doing their jobs).

However, a claim for compensation does not invariably constitute the victim's primary objective, particularly for individuals who have experienced personal assaults. In these instances, the civil action presented in the criminal court frequently transforms into a quest for truth, the determination of accountability, and the attainment of justice.

Victims want to share prosecutorial power with the Public Prosecutor so that their complaint can be resolved quickly and they can help the investigating judge gather evidence. They also want to keep an eye on how the investigation is going and may even ask for the acts in question to be reclassified or for the accused to be punished. Victims can now form defense associations to make their voices heard. These associations can also be civil parties.

Consequently, victims and their organizations, by utilizing their procedural rights to establish themselves as civil parties and to commence prosecutions, have emerged as a primary entity opposing the authority of the Public Prosecutor within the criminal justice system.

Nonetheless, the victim's assertion remains unclear within criminal proceedings. This lack of clarity comes mostly from the fact that the victim's action may have two purposes, which is what is meant by the dual purpose of the civil action (Boulan, 1973, p. 2563). The victim's claim encompasses both the pursuit of civil compensation for the incurred harm (civil purpose) and the solicitation of a declaration of criminal liability (criminal purpose).

But this duality is hard to control because one purpose can take over the other. For example, the victim doesn't have to ask for money; they can just go after the criminal goal of the action, which limits the claim to the punitive side. Article 376(2) of the Code of Criminal Procedure says, "The civil plaintiff may claim compensation for the harm caused to him." This proves that this is true. This shows that the claim for compensation is not required. Furthermore, even if the criminal jurisdiction is not authorized to grant damages to the victim, this limitation does not prevent the victim from initiating proceedings in the criminal courts, indicating that the punitive objective may encompass the civil claim. In fact, the victim may be better off going the criminal route, even if they want to get paid, because it gives them access to stronger evidence-gathering tools that come with a criminal investigation and possible help from the Public Prosecutor.

These two goals of the civil action make the victim's role in the criminal case very unclear, since their role changes depending on what they are trying to achieve. However, the logic of each objective is not consistently upheld in isolation. The criminal aspect of the civil action enables the victim to participate in essential decisions directly related to the offender and the penalties enforced. The victim, however, still has few options for reaching this goal. Article 269 of the Code of Criminal Procedure lists the orders of the investigating judge that the victim or civil plaintiff can appeal. These include orders that say the police don't have to investigate, that the case should be thrown out because there isn't enough evidence, or that the victim's civil rights should be affected. On the other hand, decisions about the accused's pre-trial detention or judicial supervision measures can't be appealed, even though they are directly related to the victim's interests.

This exclusion is warranted by the stipulations regulating pre-trial detention, especially the necessity to avert coercion of witnesses or victims (Article 201, paragraph 2, Code of Criminal Procedure). However, this justification does not sufficiently encompass all practical scenarios.

The victim also has the right to contest acquittal orders in misdemeanor cases. But this kind of appeal can only be about civil matters; the only thing that can happen is that the criminal chamber can change the facts and say that a crime happened, which would allow the victim to get money. However, the chamber cannot convict someone just because the civil party filed an appeal (French Court of Cassation Criminal Chamber, 1992). This shows a contradiction: the criminal goal is to protect the victim's interests, but the tools available to do this are limited compared to those available to achieve compensatory goals.

On the other hand, if one sees the civil action as mostly meant to make up for damages, more contradictions come up. In some cases, this goal of compensation cannot be met because compensation is tied to legal systems that are not related to criminal liability, like compensation funds or special laws like traffic accident compensation laws. Also, Article 3 of the Code of Criminal Procedure says that compensation can only be given for direct harm caused by the crime. This means that some types of material and moral damage are not eligible for compensation. In certain instances, this makes it impossible to get compensation for crimes that are public in nature. Even though new laws have been passed to make compensation more available and bring together the right court, the goal of the civil action—to make up for harm— isn't always met through criminal proceedings.

The lack of clarity about what the civil action is for and how to achieve its goals has a direct effect on the victim's standing in criminal proceedings, making their legal position unclear.

3.2.1 Ambiguities Regarding the Victim's Standing in Proceedings

Articles 2 and 3 of the Code of Criminal Procedure give the victim the right to start public proceedings and the right to file a civil action at the same time as the public action. Also, Article 1 of the same Code's Preliminary Provisions says that the courts must tell civil claimants about their rights and protect those rights at every stage of the proceedings.

One of the main problems in this case is figuring out the victim's relationship to the public prosecutor, who usually has all the power to bring charges and run public actions. From this standpoint, it is significant that the rules of criminal

procedure have progressively enhanced the role of victims, both regarding the allocation of rights in initiating prosecutions and the allocation of rights throughout the proceedings.

A. Distribution of Rights in Initiating Prosecution

Article 2, paragraph 2, of the Code of Criminal Procedure says that "the injured party may also start this action (the public prosecution) under the conditions set out in this Code." This provision suggests that the civil action may, at certain times, find itself in competition with the public prosecution. When the victim establishes themselves as a civil party, it means that the public prosecutor has not started the case, which forces the prosecution to move forward.

The filing of a civil claim before the investigating judge may start a public prosecution. According to Article 147 of the Code of Criminal Procedure, anyone who has been hurt by a crime or a misdemeanor can file a civil lawsuit with the right investigating judge by filing a complaint that asks for civil damages. Article 476 of the same Code says that in some misdemeanor cases, public prosecution can also start with a direct summons to court.

In some cases, the victim must agree to start the public prosecution, and the case can only move forward if they file a complaint. This applies, for instance, in situations involving breaches of privacy, like adultery (Article 339 of the Penal Code), or family-related crimes, like abandoning a family member or not giving up a child (Article 330 of the Penal Code). The same goes for some theft-related crimes that don't automatically lead to prosecution, like theft between relatives and in-laws up to the fourth degree (Article 369 of the Penal Code), fraud, breach of trust, and hiding stolen goods (Articles 373, 377, and 389 of the Penal Code).

Still, giving victims the power to start public prosecutions directly has come under fire. The most important of these concerns is that direct complaints made to the courts are on the rise. This could lead to the abuse of this right through false complaints or its use for purposes that have nothing to do with criminal justice. To reduce this kind of inflation, it has been suggested that complaints should first be sent to the public prosecutor. If the prosecutor decides to dismiss the case, the complaint should then be sent to the investigating judge. In fact, this method is now part of the new Code of Criminal Procedure. Now, Article 147, paragraph 2 says: *"If someone wants to file a civil claim, they must first show that they have already complained about the same actions and people to*

the public prosecutor and that the case was thrown out, or that four months have passed since the complaint was made without any decision being made to start a public prosecution."

B. Distribution of Rights During Proceedings

A fair trial necessitates that criminal procedure maintains an equitable distribution of rights among all parties involved, a concept articulated in European legislation as the "equality of arms" between the Public Prosecutor, the victim, and the accused.

The victim, therefore, has a number of procedural rights that let him or her speak up. These rights, in a way, put them back in their place in the adversarial process. The victim can still take part in the public prosecution even if they aren't directly involved. This mechanism is especially important for some people who are affected but don't have the right to file their own lawsuit. They can still join in on the proceedings.

According to Article 149 of the Code of Criminal Procedure, a civil action can be brought before the investigating judge at any time during the investigation. This right of intervention can be used before the investigating judge. Alternatively, it may be exercised before the trial judge, in accordance with Article 376 of the same Code, which authorizes any person who claims—on the basis of Article 3 of the Code—to have suffered harm from a felony, misdemeanor, or infraction, to assert civil rights in the same hearing, including the right to seek compensation for the harm suffered.

Article 144 of the Code of Criminal Procedure also gives the victim other rights, like the right to ask for their statements to be heard, for a witness to be questioned, or for an inspection to be done to find out the truth.

However, there is a limit that the victim cannot go beyond: the victim cannot force the investigating judge to take coercive or restrictive actions against the accused, like putting the accused under judicial supervision or ordering pre-trial detention. The Public Prosecutor is the only one who can exercise these rights, and they are in charge of the public prosecution.

The legislator has given the Public Prosecutor the power to use mediation as an alternative criminal measure, either on his or her own initiative or at the request of the victim or the complainant, whenever it may help fix the problems caused by the crime. This is allowed by Article 59 of the Code of Criminal Procedure.

Article 9 of the same Code also says that public proceedings can end through a mediation agreement or the withdrawal of a complaint when necessary for

prosecution. They can also end through reconciliation when the law allows it, like in cases of currency-related crimes (Ordinance No 96-22, 1996).

In this case, we are dealing with a kind of restorative justice that indirectly helps the victim. The Public Prosecutor still has the power to make decisions, but fixing the harm is still a key factor in the outcome of the case, since compensation is, in some ways, a form of punishment.

From the above, we see that the victim's claim has two sides. There is a clear desire to limit and narrow the victim's options for action by making harm a key factor in the case. Conversely, there is an inclination to utilize criminal procedures to appease the victim. So, in both restorative and negotiated justice, the victim is definitely at the center of things. The procedures used, on the other hand, change this position, making it more or less clear depending on how the balance is struck between punishment and reparation.

4. CONCLUSION

The preceding analysis indicates that the victim's role in criminal proceedings has evolved considerably, yet it continues to exhibit a level of ambiguity—both in defining the victim's status and scope, and in elucidating the nature of the civil action commenced by the victim. The examination of the Algerian legislator's approach reveals a lack of a cohesive perspective on this matter: at times, the legislator adopts a broad interpretation of the victim's rights to enhance procedural participation, while at other times, these rights are curtailed to meet the demands of criminal prosecution.

The dual nature of the civil action—oscillating between a compensatory aim and a punitive aim—reflects legislative uncertainty regarding whether the victim should be considered merely a secondary party in a public dispute or as a principal procedural actor entitled to an independent and equitable status alongside other parties. This indecision has led to a clear lack of clarity, not just in how rights are exercised, but also in the larger legal idea of where the victim fits into the criminal justice system.

In order to protect victims, modern criminal justice must conduct a thorough review of the legal rules that govern the victim's action. This must be done while also protecting the rights of the defense and the principle of judicial impartiality. The relevant provisions must be clear, effective, and balanced as part of this reform.

From the above, the principal recommendations may be summarized as follows:

- Standardizing legal terminology related to the victim by providing precise and consistent definitions across both procedural and substantive laws.
- Establishing the principle of *equality of arms* in criminal proceedings, thereby enabling the victim to exercise rights on an equal footing with the Public Prosecutor.
- Giving the victim a bigger and more important role in restorative processes, especially in cases where the crime was personal or involved family members, and making those processes more widely available.
- Recognizing the right of victim advocacy associations to intervene meaningfully in criminal proceedings, especially those concerning collective interests.

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