

The Functionalization of the Victim in the Criminal Justice System

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INTRODUCTION

Discussion of the victim in criminal policy is a fashion, peculiar in the sense that virtually identical contents appear again and again dressed in new clothes. Viewed from a distance, the victim has become an opalescent concept of criminal justice—opalescent because the models and conceptions of the victim in criminal justice depend, to a significant degree, on the perspective of the viewer. Thus we find:

- the victim who is first normatively neutralized and then rediscovered;
- the victim presented in mass media who attracts political interest—especially in times of election campaigns;
- the victim who becomes the subject of scientific study and the starting point of criminological criticism of the meaning and function of criminal justice;
- the victim whose behavior constitutes an element of a criminal offense, necessary for the application of criminal justice;
- and finally, the invisible potential victim who feels exposed to the dangers of the uncontrollable modern era.

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Discussion of these different models of victims has waxed and waned. Study of the victim began during the seventies, peaked in the eighties, and—after a short slack period—has revived in the nineties. Once again, it is time to focus on the fundamentals of this discussion in order to determine the position of the victim in the actual process of social control and to address the meaning of this position—its actual functionalization. I note in advance that I intend to add an additional image of the victim to those previously mentioned—namely the image of the *functionalized* victim who serves those with (or aspiring to) political power.

I. THE VICTIM IN THE LEGITIMATION CONCEPT OF CRIMINAL JUSTICE

A. *The Victim in the Formalization of Government Power*

The main concern of criminal justice is the order and limitation of the execution of power. Power can appear in different forms: as power executed by citizens against each other, as the power of society against the citizen, and finally (and most significantly) as the power of government directed against the citizen.

The genesis of the European national criminal justice order of the nineteenth century—which is based on the principle of freedom—identifies the preconditions for the legitimation of power. In so doing, it gives a clear definition of the relationship among these possible relations of power.¹ If the execution of power by citizens is connected with the violation of individual freedom—namely with an encroachment on the individual rights to life, physical safety, property, or general free will—then the injustice

1. Compare Wolfgang Naucke, *Über die Zerbrechlichkeit des rechtsstaatlichen Strafrechts*, 90 *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft* (Krit V) 244 (1990); Winfried Hassemer, *Grundlinien eines rechtsstaatlichen Strafverfahrens*, 90 *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft* (Krit V) 260 (1990).

incurred demands a reaction from the government. Hence, the pain suffered by the victim is compensated by governmental administration of pain to the offender. In this imaginary model of the absolute criminal theory, the victim is the point of reference of freedom.²

Yet this process is more than just a conflict between private individuals. The injustice suffered by the victim transforms a private conflict between the victim and the offender into a public affair.³ In fact, if this were merely a conflict between private individuals, then our consideration would turn to the role of the state in administering damages. But absolute criminal theory does not involve such crude conciliation and retaliation.⁴ Instead, absolute criminal theory secures freedom by limiting state power to the repression of actual injustice. Only for this purpose may the state enforce means of power that he possesses through the social contract. Thus, the execution of power among individuals—when it exceeds mere conflicts and produces injustice—will be assumed by the government and thereby formalized and limited to the enforcement of non-waivable norms.⁵ The “neutrali[z]ation of the victim”⁶ is the consequence and condition of formalized, and therefore, limited execution of power in criminal justice. Decisive is the fact that this formalized power possesses an exclusive claim to legitimacy.

2. See Kurt Seelmann, *Paradoxien der Opferorientierung im Strafrecht* 1989 *Juristenzeitung* 670, 675.

3. *Id.*

4. But see Bernd Schünemann, *Zur Stellung des Opfers im System der Strafrechtspflege*, 1986 *Neue Zeitschrift für Strafrecht* 193, 196.

5. For rediscovery of the absolute criminal theory which is not considered modern, compare Felix Herzog, *Prävention des Unrechts oder Manifestation des Rechts* (1987); Michael Köhler, *Der Begriff der Strafe* (1986), with Fichtes *Lehre vom Rechtsverhältnis* (Michael Kahlo et al. eds., 1992).

6. Cf. Winfried Hassemer, *Rücksichten auf das Verbrechensopfer*, in *Festschrift für Ulrich Klug* 217, 220 (Günter Kohlmann ed., 1983).

B. The Victim in the Criminal Justice Concept of the Constitution

A triangular relationship, bound together by law, exists among state power, the offender exercising power, and the victim suffering from the exercise of this power. This sensitive relationship is expressed in the German Constitution both as a legal principle and in the form of civil rights.

The victim also has a role in this constitutional law framework. This point is illustrated in the latest decision of the Constitutional Court (*Bundesverfassungsgericht*) concerning the concept of power.⁷ There, the Federal Constitutional Court rejected—as inadmissible analogy—the “intellectualized power concept,” in which only a psychic force effect relating to the victim was sufficient to constitute a characteristic legal element of an offence of power.⁸ The decision asks which form of execution of power—as an expression of individual power—amounts to injustice, which can be penalized. The Constitutional Court states that power in modern society can appear in many forms. The power of markets, international politics, associations, parties, trade unions, and factual enforcement are all forms of hidden power.⁹ All these forms of power combine, in varying degrees, to stifle the development of individual freedom. Hidden power creates conflicts and also injures victims. But, in order that the elements of the offense of compulsion do not lose their legitimacy, criminal law may not be burdened with these political contents of the concept of power, according to the Constitutional Court.¹⁰ Power is therefore understood restrictively as a physical force development—even if only small—which results in physical constraint of the victim. Thus, the circle of the

7. 92 BVerfGE [Decisions of the Federal Constitutional Court] 1.

8. Id.

9. Id. at 16.

10. Id. at 17; cf. Stefan Braum, Grundgesetzinterpretation und Strafrecht, 1995 *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft* 371, 383.

victim is necessarily limited: A victim in the sense of criminal law is a person who has experienced injustice in the form of suffering a kind of force that everyone can recognize, namely a physically enforced effect.

The victim in criminal law is not the loser of a social conflict. As a result, the treatment of the victim may create a moral, or possibly a political, problem but certainly not a problem for the criminal law. The enforced deprivation of power the victim suffers as a consequence of the offender's actions is, however, taken so seriously that only governmental criminal power may be called upon. A new relationship of power is thus created, namely that between state and the offender, who initially has to be treated as not guilty. The person charged with an offense can oppose governmental power with the power of civil rights. Criminal law—particularly in criminal proceedings—guarantees the civil rights of those participants in the proceedings who are exposed to governmental execution of power.

Constitutional law thus effects a fair settlement between offender and victim: the infringement on the victim's freedom inspires respect by the state, which must worry about balancing the committed, visible injustice with its own power. The offender's respect for freedom—expressed in legal principles and civil rights that govern criminal proceedings—is increased by the loss of freedom. However, the victim is not deemed to be without rights; he is not forgotten. Instead, he is advised to seek justice in civil or administrative fora.¹¹ The criminal law's neutralization of the victim is characteristic of liberal state theory and fundamental law theory, both of which are interested in a reduction of state and social enforcement of power.

11. Winfried Hassemer, *Einführung in die Grundlagen des Strafrechts* 69 (2d ed. 1990).

C. *Consideration of the Victim as Barrier to Criminal Law Dogmatism*

The neutralization of the victim in the process of restricting the freedom of the accused is less pronounced if the victim contributes to a possible restriction of the penalty. This dynamic is evident in cases involving the gullibility of the cheated victim,¹² the negligence of the injured victim, and with respect to questions of self-defense. In such cases, the victim's behavior suggests that he consents to the restriction of his liberty and can exempt the offender from punishment. The victim's behavior can also privilege the offender if the "unreasonableness" of the victim is taken into consideration, for example, in cases of mercy killing.¹³ The victim's behavior is also relevant to settlement issues: if the loss of power that the aggrieved party suffers is not complete within the punishable crime because the victim—as far as his autonomy is concerned—is responsible for his injury. In this case, the criminal justice system need not react. Thus, injustice is once again defined as conflict, and surrendered to the control of the powerless participants in the conflict.

D. *The "Rediscovery of the Victim" in Constitutional, Political, and Social Theory*

The concept of the victim party is changed in the model of the prevention state. Prevention distorts the concept of violation, and thereby subjects it to divergent and sometimes contradictory claims.

12. Wolfgang Naucke, *Der Kausalzusammenhang zwischen Täuschung und Irrtum beim Betrug*, in *Festschrift für Jan Peters* 109 (Alex Lubinski et al. eds., 1997).

13. But see Ulfrid Neumann, *Die Stellung des Opfers im Strafrecht*, in *Strafrechtspolitik: Bedingungen der Strafrechtsreform* 225, 227 (Winfried Hassemer ed., 1987).

1. Prevention and the Loss of the Concept of the Victim

In prevention theory, the victim is lost as a criminal law point of reference. In fact, the individual is necessarily lost in process-oriented criminal theory, with its emphasis on the stabilization of systems and norms, the deterrence of criminal actions, the resocialization of the offender, and the protection of society from future criminal actions.¹⁴ The promise of preventative criminal law—to have available solutions for global social dangers—does not need a concrete individual victim. Criticism of critical criminology focused on this rather technical purpose orientation and sought to rediscover the victim party as a subject, as a measuring standard of a more humane criminal law.

2. The Victim Orientation and the Diversion Movement

The opponents of critical criminology argued—probably justly so—that criminal law had distanced itself from the reality of the persons concerned, offenders and victims. On the one hand, offenders were stigmatized by their expulsion from a society that offered them no meaningful opportunity for social reintegration. On the other hand, the victim remained alone with the consequences of an offense and became an object in proceedings that ignored—and perhaps increased—his individual suffering. This formal criminal law was blind, meant only for the fulfillment of purposes greater than satisfying the interests of individual offenders and victims. In this blindness, the victim's claim for control had to be denied, even in the long term.

In response to this problem, the concept of a reflexive orientation of consequences was created. Juvenile criminal law served this concept as a place of experiment. It was important to equip persons applying the law with sanctions

14. Hassemer, *supra* note 11, at 72.

and procedural mechanisms that were compatible with a social pedagogical orientation and would be sensitive to the peculiarities in the situation of offender and victim. Repression of injustice that already had been committed was not important—not even to the fulfillment of the purpose defined by the system. What mattered was settling the conflict that was assumed to be the cause of the crime. “Diversion” was the magic word, capable of avoiding the imposition of stigmatizing sanctions, of giving the victim the opportunity to explain his violation to the offender, and of bringing about a settlement.

In this process, however, procedural formalities had to be bypassed, and for both offender and victim, less burdensome proceedings had to be established. Behind this vision was hidden the concept of the welfare state, supplemented by the professionalization and institutional criticism of the seventies, which replaced authoritarian governmental resolution of conflict with a model in which the state acted as mediator in the search for settlement. Thus, the conflict was returned to society—under the control of the penalizing state.¹⁵ It was thought that this model would create a more humane justice system that would eliminate penalties and produce harmony between the parties involved and thus, for society as a whole.

3. The Victim Orientation and Deregulation in State and Society

The situation seemed to improve even more when the model of deregulation of all areas of state and society replaced this concept of the welfare state. The state appeared to withdraw from the process of social control, waiving its authority to intervene not only in the economy

15. Cf. Franz Bettmer et al., *Informal Justice and Conflict Solution: A Research Report on New Interventive Strategies of Administrative Social Work in the Field of Juvenile Delinquency*, in *Crime Prevention and Intervention* 129 (Peter-Alexis Albrecht & Otto Backes eds., 1989); Hans Bollert & Wolfgang Otto, *Prevention as a Strategy of Normalizing: An Analytical Approach on Restructuring the Integration Paradigm in Institutional Social Work*, id. at 199.

but also in areas that belonged to its traditional power monopoly. Prisons were privatized and increasingly, private security services patrolled public areas.¹⁶ In the end, private individuals gained more and more autonomy within the criminal proceedings. For example, the victim's responsibilities in criminal proceedings have been enlarged significantly, especially in the area of independent investigations.¹⁷ In addition, the prosecutor, not governmental institutions, has operated as an instrument of legal prosecution.¹⁸ In short, we are now experiencing a redistribution of power between the public and the individual in which public power as a legitimate reaction to an individual's unacceptable execution of power is being granted to the individual. Moreover, private forms of the execution of power, and particularly that of the victim toward the offender, are increasingly privileged against the formalized governmental patterns of reaction that we have seen up to now.¹⁹

This privileging of private power rests on the dubious foundations of subsidiarity and Constitutional Rights. *Subsidiarity* demands that people take more responsibility for their own security. Only then, when the individual system of security—that has been recognized as sufficient—fails, should the victim be allowed to call upon the state. This view, originating from the *ultima ratio principle*, is consistent with the maxims of the economic regulation of law. Criminal law—in the preventive state as an element of the provision of existence—in the deregulated context finds itself under the rule of economic

16. Compare Michael Voß, Private Sicherheitsdienste, in *Neue Kriminalpolitik* 39 (1993), with Hubert Beste & Michael Voß, *Privatisierung staatlicher Sozialkontrolle durch kommerzielle Sicherheitsunternehmen? Analysis and Criticism*, in *Privatisierung staatlicher Kontrolle* 219 (Fritz Sack et al. eds., 1995).

17. See Thomas Weigend, *Deliktsoffer und Strafverfahren* 414 (1989).

18. See Volker Krey, *Zur Problematik privater Ermittlungen des durch eine Straftat Verletzten* (1994).

19. Compare Wolfgang Naucke, *Schwerpunktverlagerungen im Strafrecht*, 1993 *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft* 135, 139.

efficiency and on the same level as service administration and welfare state bureaucracy.²⁰ The preventive objectives of the criminal justice system seek to process and control social risks. Thus, it clearly makes sense to optimize the criminal law's dealing with these risks. The privatization of state power is another aspect of this process. The strengthening of the victim in proceedings is therefore based only on a concept according to which its employment has no economic purpose. From the *constitutional rights* perspective, the general right of personality validates the victim's authority to investigate. As a whole, the concept of the person under the Constitution—and the rationale underlying the privileging of private power—demands a strong position for the victim with respect to the criminal law. This focus on the victim, as an effect of positive general prevention,²¹ also strengthens public confidence in law and order.

In short, the victim's loss in the preventive criminal law is compensated, on the one hand, by welfare-state and institution-critical concepts of the criminal law and on the other hand, by the more modern concept of the deregulation of state power. Neither framework can return to the concept of the victim as victim party, at least as that concept is understood in absolute criminal theory or a liberal understanding of constitutional law. Instead, these frameworks create an alternative model of prevention, which offers—from socially or organizationally determined motives—to solve conflicts in society. The rediscovery of the victim does not require the criminal law—or something, which is only labeled as criminal law—to waive control. Instead, control makes new demands of the criminal law, which aim at its distortion. The concepts seem to promise less state, less execution of power, and thus, more hope for the offender and victim. However, this process may obscure actual power relationships.

20. See Krey, *supra* note 18, at 35; see also Lothar Mahlberg, *Gefahrenabwehr durch gewerbliche Sicherheitsunternehmen* 52, 55, 64 (1988); Christian Dietrich Bracher, *Gefahrenabwehr durch Private* 85 (1987).

21. See Krey, *supra* note 18, at 31.

II. BACKGROUND OF THE VICTIM ORIENTATION IN MODERN CRIMINAL LAW

A. *Conceptions of the Victim in the Process of Informalization*

The rediscovery of the victim in the welfare state is part of the total process of informalization of criminal law. This informalization does not bode well for the criminal justice system. For instance, our experience with diversion suggests that the withdrawal of the public prosecutor from juvenile criminal proceedings serve only as a settlement instrument to avoid criminalizing minor offenses. The prosecutorial practice of diversion also suggests that primarily schematic criteria—for example, the seriousness of the crime, prior criminal charges against the accused, and offender characteristics—all determine the decision to withdraw from the proceedings. This practice—to which the offender-victim settlement also belongs—maintains the criminal law's resistance to preventive claims that are grounded in criminology.²² When trying to arrange a settlement between offender and victim, the actions of the parties involved are governed by humane pedagogical patterns, not the administrative rules of execution that drive the courts. The pedagogically motivated settlement always has the hard sword of repression in its back: The offender and victim know that if voluntary settlement efforts fail, they can be coerced into a settlement.²³

Criminal law and juvenile criminal proceedings cannot be reconstructed as a paradise of harmony. Instead, criminal law will always function in the traditional sense as a means of executing the power of the state against the

22. Cf. Wolfgang Ludwig-Mayerhofer, Die staatsanwaltschaftliche Diversionspraxis im Jugendstrafrecht, in *Informalisierung des Rechts* 47 (Peter-Alexis Albrecht ed., 1990).

23. Id.

people, including both the offender and the victim. What remains at the end is the dissolution of the legal form that gives more power of organization to the public prosecutor and to the law courts, and permits criminal law—and especially criminal proceedings—to become more varied and dissimilar in their practical legal applications. Within this process, there is a danger of violations of freedom to the disadvantage of the offender. There is also the danger that concern for the violation of the victim's freedom will get lost because, ultimately, concern for the victim is only a tool to help the legal proceedings run smoothly.

B. Conceptions of the Victim in the Process of Privatization of Social Control

The process of deregulation confirms that fundamental rights are often endangered by the privileging of private power. Fundamental rights can be compromised wherever ties to public power are no longer recognizable—when, for instance, execution of a sentence is put into private hands; when responsibility for protecting public spaces is given to private security services; or, most notably, when private parties become involved by government order in investigation procedures. Then procedural protections—like the duty to instruct the accused or the right to remain silent—lose their effectiveness because they were not intended to apply to the actions of private parties.²⁴ Thus, for example, the Federal Law Court has refused to apply the sections 136, 136a, 163, 163a of the German Code of Criminal Procedure (StPO) to investigations undertaken by private persons,²⁵ even though the state orders the private investigation, profits from evidence collected by private individuals, and uses the information so obtained to charge the accused, all in the absence of any explicit constitutional authorization.

It is therefore incorrect to assume that the legality

24. Cf. Winifried Hassemer & Karin Matussek, *Das Opfer als Verfolger: Ermittlungen des Verletzten im Strafverfahren* (1996).

25. BGH 96, 465 [Decisions of the German Supreme Court].

principle in German criminal proceedings forbids waiving governmental exercise of power when violations of freedom relevant to criminal justice occur. Indeed, such a waiver is precisely the result if the victim carries out his own investigations during the criminal proceedings. Increasingly, public prosecutors' investigation records are filled with findings obtained by the victim often under circumstances in which it is by no means clear where and by what means the findings were obtained.²⁶ In such cases, it is also not clear whether evidence was gathered by inadmissible methods. Thus, there exists the possibility that procedural devices that should exclude improperly obtained evidence will fail to protect the accused. In the process, the balance of power among the offender, the victim, and the state is altered at the expense of the accused. In addition, where the victim is strengthened, the potential offender loses ground. When the accused sees himself as an adjunct to the public prosecutor, to the court, or to his lawyer, and when the interests of the victim take on an increasingly more prominent role in criminal proceedings, the ability of the accused to assert his own fundamental rights in an effective way is correspondingly diminished. With this insidious erosion of procedural fundamental rights, governmental execution of power over the potential offender is also completed with the aid of the victim. This process does not occur exclusively in criminal proceedings.

C. The Victim from the Perspective of Irrational Security Policy

Criminal policy discussion of the victim also raises the problem of "prognosis decisions" made during parole proceedings for dangerous offenders serving life sentences. The political discussion—often tainted by demagoguery with little true perspective—places the victims of sexual crimes at the center of public discourse. The victim's

26. Hassemer & Matussek, *supra* note 24, at 46.

suffering thus becomes an effective mass media marketing tool. Focus on dramatic individual cases is used to buttress contentions that the criminal justice system has failed and offers additional support for the argument that more state action is necessary. As a consequence, the preconditions for release from life imprisonment are altered, again to the detriment of the offender. In addition, the judge's discretion in making prognosis decisions is restricted, if not eliminated completely. Release presupposes the exclusion of countervailing concerns about public security.²⁷ However, if one takes the wording of the amendments to the law seriously, premature release is not at all possible from a criminological point of view because the success of such a plan is beyond the prognostic capability of experts.²⁸ Focus on the victim also serves to eliminate sensible starting points for positive special prevention and to highlight the arguments of populist security politics, all at the expense of the individual.

In sum, although informalization of the criminal law, privatization of social control, and the politicization of judicial decisions concerning prognosis combine to create a victim-oriented jurisprudence, the process necessarily obscures and compromises principles that serve to protect the accused and sentenced offenders. In these processes, the power of the state is enlarged. I return, therefore, to my original thesis and maintain that the increasing consideration of the victim is politically willed, rather than a matter of chance.

27. See § 57(1) I Nr. 2 StGB [German Penal Code] in connection with § 454(2) Nr. 2 stop [German criminal procedure statute].

28. See Peter-Alexis Albrecht, *Die Bedrohung der Dritten Gewalt durch irrationale Sicherheitspolitik*, 1998 *Deutsche Richterzeitung* 326.

III. THE VICTIM AS MEANS OF UNDERMINING THE PRINCIPLES OF THE CONSTITUTIONAL STATE

A. Prevention and the All-Embracing Claim of Control

The diversion movement is not the only cause of the dissolution of legal forms described above. Instead, this development is a characteristic of “modern” criminal law in general. This criminal law reclaims its ability to control society and its problems. One can illustrate this claim of control with examples drawn from environmental and economic criminal law, and can establish its failure on constitutional legal principles.

As the regulation of the supplementary penal provisions outside the criminal code grows, abstract endangerment offense becomes the rule rather than the exception. However, the effect of this change does not reach beyond—an immeasurable—moral and political symbolism. The problems remain, and criminal law—favored as an all-purpose political weapon—loses confidence and its claims of normative application. The all-embracing claim of control pressures the criminal justice system to execute. In execution practice, case loads arise and must be channelled. But when the criminal justice system is burdened, it is forced to react with limited resources.

B. Mechanisms for Constraining the Scope of Preventive Criminal Law

The application of the *Opportunitätsprinzip* (Opportunity Principle), which has increasingly become the rule, is the chief means by which this limitation of resources occurs. This kind of execution has its roots in the politically motivated administrative rationalization of law. In a purely administrative system, one can avoid any contact with the individual and his requirements. Application of criminal law thus atrophies into bureaucratic decision making, devoid of any interest at all

in the individual characteristics of the case. What is created is a rule of execution that is antithetical to a meaningful concept of law.²⁹

The other method of constraining criminal law involves transferring government responsibilities to private individuals. By privileging private actions, the state is freed from the responsibilities with which it had been burdened. For instance, in the discussion of legitimation of private security services, it has become standard practice to tie together the right to self-defense and the authority to effect preliminary detention as the fundamental basis for empowering private actions and for making them available for the execution of private power.³⁰ As far as criminal proceedings are concerned, such actions are not opposed or hindered in any significant ways. As result, a "half-state private criminal justice" is produced, establishing itself beside and before the criminal law.³¹ The "quasi-authority" of this private criminal justice stands along the authority of state power monopoly, but not in a relationship of pure co-existence or even competition. Instead, privatization of criminal law is an expression of preventive ideas in general, with the result that social control is situated at the forefront of the offense. Both developments converge in their indifference to the fundamental rights. Thus, privatization of criminal law strengthens the process of administrative rationalization and, at the same time, makes available a possibility for social control by privates.³² State and private owner come together as mechanisms for coping with material arising from preventive control. The discussion of the victim very much suits political

29. Clarified by Wolfgang Ludwig-Mayerhofer, *Das Strafrecht im Zeitalter seiner administrativen Rationalisierung: Kritik der informellen Justiz* (1998).

30. Compare Bob Hoogenboom, *Die Verflechtung zwischen staatlicher und privater Polizei*, in *Polizeipolitik* (Beiheft zum *Kriminologischen Journal*) 197 (Manfred Brusten ed., 1997); see also Lothar Mahlberg, *Privatpolizei im System unserer Rechtsordnung*, id. at 209.

31. Naucke, *supra* note 1, at 142.

32. See Trutz von Trotha, *Staatliches Gewaltmonopol und Privatisierung: Remarks Regarding Governmental Forms of Order of Power*, in *Privatisierung staatlicher Kontrolle: Befunde, Konzepte, Tendenzen* 14 (Fritz Sack ed., 1995).

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legitimation of this development: the state exerts power but tries to obscure its execution of it with the aid of the discourse about the victim.

The increasing focus on the victim in criminal law, the growing use of private parties in preliminary investigations, and the partial assignment of public security to private security services are as much the result of increased governmental social power as the armament of governmental means of power. Ultimately, privatization is only a means to create more—and uncontrollable—criminal law. In this process, the victim serves as a tool for the political objective of furthering the reduction of civil rights.