

Violation and Satisfaction. A Sociology of Law Study of Non-Pecuniary Damages to Victims of Crime

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Citation

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Creator/Principal investigator(s)

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Description

The thesis takes its starting point in the question of how damages for violation of crime is determined. This type of non-pecuniary damages to crime victims has a fundamental uncertainty regarding the computation of damages and what is really meant by “violation” in the meaning of the law. There is also a gliding between the violation and the suffering, as to which the compensation is related. The violation-dimension has a more “objective” connotation as a sanction in the sense of an attack on a protected interest within the rule of law. Whereas the suffering-dimension focuses more on the “subjective”, individualized injury as the object of attack. According to law, damages for violation should be determined such that it reflects the present social norms within society. Therefore, the compensation must be seen in relation to the context of criminal law, levels of punishment, the proportionality of the compensation in relation to the punishment and the crimes’ penal value. Thus before the empirical study, two central suppositions were: (1) if the applicator of the law “succeeds” in this task and (2) if it is possible to say something about if the application of the law, for instance the compensation levels, influences the satisfaction among the victims. The general object of the thesis is: to investigate how the application of the law reflects the sense of justice and how empirical knowledge can contribute to the legal field in question.

The study includes two surveys, one involving the public and the other involving crime victims that had received compensation for criminal injuries from the Crime Victim Compensation and Support Authority. The surveys consist of vignette questions selected from legal usage and questions about the victims' experience of the compensation. The legal rule, about a victim's right to compensation for the violation, opens up for different interpretations and several possible applications because of its vagueness. It is reminiscent of what H.L.A. Hart describes as "the open texture of law". If the interpretation and the application of the rule is too standardised, or made from the "external" point of view according to Hart, it can be difficult for the crime victims to get satisfaction by way of the compensation. But if there is no internal point here, or put in another way, if there are merely different personal opinions on and expressions of how the rule is to be applied, it is hard to say that the compensation really can function according to the law. The research topic is therefore linked to the problem of incommensurability and a version of what it means to follow a vague rule in an individual way. Therefore it was interesting that the respondents in general had no difficulty valuing this type of non-pecuniary damage. The main point is that the application of a rule goes beyond the rule and the meaning of the rule is to be understood in reflection of a broader practice. The dissatisfaction among victims can therefore be understood as a consequence of a too narrow understanding of what it means to follow a rule.

The subject and the analysis of the results from the empirical study, show how several dichotomies between formal and informal norms and between the internal and external view of law is put in question and under stress. But this is not meant as a critique, to show a "gap problem" or between "law in books" vis á vis "law in action", but rather to illustrate that what can be described as leaking law is a central dimension of a normative system that deals with values, languages and the application of general rules through interpretation in a certain context. So the question is rather how its leaks rather than if, moreover, according to the legislator, the estimation of the compensation shall leak.

Purpose:

The aim of the study was to investigate how different types of violations caused by criminal attacks are perceived and valued.

Unit of analysis

[Individual](#)

Time Method

[Cross-section](#)

Sampling procedure

[Probability](#)

Variables

8

Number of individuals/objects

1401

Data format / data structure

[Numeric](#)

Geographic spread

Geographic description: The study has been conducted in Sweden with respondents living in Sweden.

Highest geographic unit

Country

Ethics Review

Lund - Ref. 2009/43

Research area

[Social sciences](#) (Standard för svensk indelning av forskningsämnen 2011)

[Law and society](#) (Standard för svensk indelning av forskningsämnen 2011)

Keywords

[Law enforcement](#), [Crime victims](#), [Criminal justice system](#), [Legal damages](#), [Philosophy](#), [Money](#), [Social norms](#)

Accessibility level

Access to data through SND

Data are freely accessible

Use of data

[Things to consider when using data shared through SND](#)

Versions

Version 1.0. 2016-04-04

Related research data in SND's catalogue

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