A Study of Crime Victim Protection Policy and regulations in Taiwan

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1 This article is cited to the research project commissioned by the Ministry of Justice in 2011, “evaluation report on crime victim protection policies,” with principal investigator Professor Fu-Seng Hsu, along with project leader Professor Ying-chieh Lu, Professor Yu-shun Lin, Associate Professor Chin-li Chang, and Assistant Professor Lan-ying Huang.
Abstract

In response to the modern criminology on the protection of crime victims, Taiwan has gone through the periods of enlightenment (up till 1980), exploration (1981-1990), development (1991-2000), and Regulatory reform and innovative solutions (2001 until today). However, limited by regulations and budgets, the focus of judicial procedure is placed more on compensation than establishment of measures to safeguard other rights and interests. The rights and interests of crime victims are still overlooked.

In response to this problem, recent coping strategies can include establishment of “crime victim protection policy promotional work team,” annual publication of “white paper on the protection of crime victims,” expand professional resources in crime victim protection, and arrange for stable budget to conduct relevant protection work. In the middle to long term, possible coping strategies include establishment of a state-level crime prevention research institute, establishing “act to protect the rights of crime victims,” establishing “protection of crime victims commission” at the Executive Yuan level, and establishing local “centers for protection of crime victims.” Different departments should have exclusive human resources and windows for victim protection, establishing “fund for the protection of crime victims” for uniform authority.

Keywords: crime victims, Crime Victim Protection Act, crime victim protection policy
I . Introduction

In recent years, with the development of victimology, protection of victim rights has become another important research issue in criminal justice policy. On the other hand, the longstanding criminal justice policy in Taiwan demonstrates emphasis on the human rights of defendants, but has overlooked the real victims of crime, neglecting the rehabilitation of state obligation and rights to crime victims. However, crime occurs between criminals and victims. If there is only concern about the criminals and the crime victims are overlooked, it would be impossible to grasp the fact of crime, and it would also be impossible to effectively prevent crime, resolve security problems, and assist recovery of victims.

Thus, the improvement of protection for crime victims in Taiwan must reevaluate the crime victim protection system in Taiwan in terms of policies, regulations. Based on this ideal, structurally this article is divided into the following portions: an explanation of the motivation and ideas in this article, followed by discussion about Policy and regulations in Taiwan, and finally response strategies are posed as the conclusions and suggestions in this article.

II . Policy and regulations

In conformity to the modern criminal law trends in strengthening the protection of crime victims in Taiwan, the direction of policy development has also undergone the stages of enlightenment (prior to 1980), exploration (1981-1990), development (1991-2000), and regulatory reform and innovative solutions (2001 to the present), which are described as follows (Hsu, 2012, pp.583-593).

1. Enlightenment period: prior to 1980

Before 1980, the issues relating to the protection of crime victims did not receive significant concern and discussion in Taiwan. Only a few scholars have referred to this issue and begun discussion of this issue. For instance, in 1957 Professor Chi-tung Lin proposed compensation for victim damage (Lin, 1957, p.8); in 1961, Professor Tun-ming Tsai proposed that if criminal law had stipulations for crime compensation, it would avoid the burden of litigation later (Tsai, 1961, pp.19-25); in 1965 Professor Kan-mei Chang wrote to promote the importance of victimology, which began the academic study of victim protection policy in Taiwan (Chang, 1961, pp.19-26; Chang, 1995, Preface 5). This shows that the scholarly exploration of this issue indeed gave us significant enlightenment on it.

2. Exploratory period: 1981-1990

In the 1980s, various sectors in society have begun to notice issues relating to the protection of crime victims. This was caused by major events of violence that occurred in society, after which crime victims could not find help; also, the women’s rights movement gradually received more attention. Women’s rights groups continuously promoted the bodily safety and protective measures for women and children, which has also promoted government attention to crime victim protection
policy. For instance, in 1984 a mental patient threw acid at students in Yingqiao Elementary School in Taipei, and in 1985 newspapers reported on aborigine girls being sold into prostitution by their parents. After these issues, the overall problem of underage prostitutes began to receive attention in society.

Then, after the Taiwanese economy progressed, egalitarian views gradually received more attention from society. In addition, when martial law was lifted in 1987, many civic groups formed. Many are societies concerned with the safety of women, such as Modern Women’s Foundation, Taipei Women’s Rescue Foundation, The Garden of Hope Foundation, Awakening Foundation, and Good Shepherd International Foundation. Former vice president Annette Lu also established the “Protect You” hotline for women’s safety. Modern Women’s Foundation established the “Women’s Protection Center” on October 22, 1988, which became the first civil organization conducting services for sexual assault victims, establishing the service model for sexual assault victims, such as crisis management services including providing crime reporting, medical treatment and court accompaniment, legal counseling, emotional support, and psychological counseling (Report on Women's Rights in Taiwan, 2003, p.180). In addition, in order to resolve problems relating to women’s physical safety, in 1990 women’s groups formed research groups on “research on the physical safety of women – legal exploration of rape, sexual harassment, marital violence, and human trafficking and women’s prostitution,” conducting research and exploration of safety regulations relating to the physical safety of women (Hsu, 2000, p.56).


After the 1990s, in Taiwan discourse over the protection of crime victims rapidly expanded and developed, primarily because direct services of private organizations gradually evolved to promotion of work and issues in the protection of crime victims, even drafting relevant systems and regulations; this promoted the government’s passing of the Crime Victim Protection Act in this period. In 1995, the Child and Youth Sexual Transaction Prevention Act, in 1996 the Compulsory Automobile Liability Insurance Act was passed, which was implemented in 1998, in 1997 Clause 248.1.1 on “accompaniment for interrogation in investigation” and Clause 271.2 “opportunity to narrate opinions on the day of judgment” of The Code of Criminal Procedure were amended to ensure the litigation rights of crime victims. Sexual Assault Crime Prevention Act passed in 1997, Crime Victim Protection Act passed in 1998, full implementation of Domestic Violence Prevention Act in 1999, and Witness Protection Act passed in 2000. In addition, in order to effectively integrate the forces of different institutions in the government, focusing on the needs of different types of crime victims to construct a comprehensive protective network to fully construct a protective network, and enhance work in the protection of crime victims, in 1998 the Executive Yuan has established the “Improvement of Crime Victims Protection.” This strengthens as many as 45 concrete measures on rescue assistance, safety protection, compensation of loss, assistance in litigation, and educational promotion. Furthermore,
“complaint window for major crime victims” was established to accept reports from victims of major crimes to quickly deal with and maintain the rights of victims.

4. Regulatory reform and innovative solutions: 2001 until today

(1) Regulatory reform

In the 21st Century, Taiwanese protection policies for crime victims continued women and children safety and protection issues from the end of the 20th Century, further promulgating the Gender Equality in Employment Act in 2002 (the name was amended to Act of Gender Equality in Employment in 2008), the Gender Equity Education Act in 2004, the Sexual Harassment Prevention Act in 2005, which was then implemented in 2006 to prevent sexual harassment and protect the rights of victims, and promulgating and implementing Human Trafficking Prevention Act in 2009 to prevent human trafficking and protect the rights of victims. During this period, victim protection policy in Taiwan also faced a new situation in the legal reform and innovative solutions period. In 2005, legal regulations were amended to establish comprehensive enforced treatment and counseling for criminals (Criminal Code Clause 77.2.3 on enforced treatment, Criminal Code Clause 91.1 enforced treatment after sentence, and Sexual Assault Crime Prevention Act on continued community enforced treatment), community supervision system, registration, and review system to integrate treatment and judicial intervention to treat and monitor sexual assault perpetrators (Hsu, 2008, p.99). In 2011, the Sexual Assault Crime Prevention Act was again amended to improve regulations on prevention of sexual assault to protect the physical safety of the people and to ensure that sexual assault recidivists are no longer potential threats to society. In 2006, amendment of the Domestic Violence Prevention Act expanded its applicability scope, established the family violence and sexual assault prevention fund, and enhanced protection measures for victims, adding an assessment system for the establishment of intervention plans for perpetrators and the regulation that perpetrators of major domestic violence crimes can be arrested without a warrant. It was hoped that a solid network of domestic violence protection can console the hearts damaged in domestic violence relationships so they can find new directions in life. “Crime Victim Protection Act” was amended in 2009, expanding the compensation subjects and protected subjects; it was again amended in 2011, so that domestic and foreign crime victims in Taiwan enjoy the same protection; this realized the government’s governance ideal as a human rights state, and had a historic significance in the progress of crime victim protection in Taiwan.

(2) Innovative solutions

In addition, Taiwan in the 21st Century has seen many innovative solutions due to the common work of governments and private organizations, which all hope to use and integrate service models to realize the protection of crime victims. For instance, the reduction of repetitive narration by victims in sexual assault cases implemented in 2001 combined the work of police, social administration, medical, and investigative systems to jointly provide comprehensive service to victims and avoid their psychological damage due to repetitive narration of the case after sexual assault
victims report their case. In 2001, Ministry of the Interior established the “113” women and children protection hotline, making the protection hotline convenient for the people, easily remembered by victims so they can seek emergency assistance. In 2002, Modern Women’s Foundation established the first joint service office for domestic violence events at Shilin District Court, providing domestic violence victims with legal counseling, court accompaniment, case services, and resource referrals. In 2004, Association for Victims Support promoted a gentle project for crime victims, providing a support network for those protected after the crimes, using the establishment of relationships to conduct evaluation and tracking for their physical and mental conditions. If a victim is evaluated to have need, then the Association’s psychological counselors will provide psychological companionship and comfort, to lower the occurrence of “Post-Traumatic Stress Disorder (PTSD).” On September 27, 2004, Executive Yuan amended “Improvement of Crime Victims Protection,” with a total of 39 concrete measures including strengthening rescue and assistance, safety protection, compensation of loss, assistance in litigation, educational promotion, giving it new life so that it can advance with the times, and conform to the purpose of victim protection. In 2005, a “community supervision and counseling network for sexual assault case parolees” based on the probation system was constructed for sexual assault perpetrators who are parolees to accept community supervision mechanisms and enhance the external control forces. In 2008, the improvement proposal for sexual assault cases was promoted, using the two core concepts of “exclusive responsibility processing” and “full service” to enhance collaboration between the police in internal investigations, forensics, with women and children organizations, closely working with prosecutors, medical care, and social administration, to provide victims with integrative team services. In 2009, improvement proposals for sexual assault cases, emphasizing the importance of interdepartmental collaboration in the network for investigation of sexual assault cases, accommodating the Ministry of the Interior to modify the proposal to “improvement proposals for integrative group services for sexual assault cases,” establishing an integrative group processing model in the prosecutorial networks, police administration, social administration, medical care, and education, providing uninterrupted professional group service and avoiding secondary harm to victims (Wei, 2009, p.7). In 2011, in order to accommodate the 2009 amendment of Crime Victim Protection Act to implement governmental assistance for minorities in governance, the “Improvement of Crime Victims Protection,” was amended to enhance crime victim protection system, strengthen measures to protect crime victims, effectively conduct emergency rescue, safety protection, counsel protection and life reconstruction, promote resource integration, ensure crime victim compensation and civil remedy rights, promote the ideal of reparative justice, and promote social stability (see Table 1 for details).
<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Explanation</th>
<th>Significance</th>
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<tr>
<td>2001.01</td>
<td>Reduce repetitive narratives by victims in sexual assault cases</td>
<td>Combines the work of police, social administration, medical, and investigative systems to jointly provide comprehensive service to victims and avoid their psychological damage due to repetitive narration of the case after sexual assault victims report their case.</td>
<td>The first experimental integration solution in the service transmission procedure, reducing the repetitive narration of sexual assault victims for different departments, to reduce secondary harms. This has been listed as an important indicator of human rights in the “2001 Report on Human Rights of Taiwan Citizens” and has been acclaimed by the US Department of State Bureau of Public Affairs.</td>
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<td>2001.01.13</td>
<td>Ministry of the Interior integrated the women and children protection hotline into the “113” Women and Children’s Protection Hotline</td>
<td>Changed the 0800-000-600 hotline to 113, which can be more easily memorized and used by victims. It is operated by the Taichung World Vision.</td>
<td>Established a nationally uniform and easily remembered 24 hour hotline, making the protection hotline convenient for the people, easily remembered by victims so they can seek emergency assistance.</td>
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<td>2002.01.21</td>
<td>Shilin District Court and Taipei City Government Domestic Violence Joint Office</td>
<td>Provides domestic violence victims with legal counseling, court accompaniment, case services, and resource referrals.</td>
<td>Promoted the beginning of “judicial social workers,” in attempt to change the understanding and attitudes of courts toward victims.</td>
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<td>2004.07</td>
<td>Association for Victims Support’s gentle project for crime victims</td>
<td>Provides a support network for those protected after the crimes, using the establishment of relationships to conduct evaluation and tracking for their physical and mental conditions. If a victim is evaluated to have need, then the Association’s psychological counselors will provide psychological companionship and comfort, to lower the occurrence of “PTSD.”</td>
<td>“The gentle project” not only cares for the hurt hearts, but is also an important process for connecting the gentle feelings between people, a process of creating social harmony.</td>
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<td>2004.09.27</td>
<td>Executive Yuan amendment of Crime Victims Procedure implemented on September 1, 2003, the inquisitorial system has been improved to an adversarial system</td>
<td>Based on the Code of Criminal Procedure implemented on September 1, 2003, the inquisitorial system has been improved to an adversarial system, 39 concrete measures including strengthening rescue and assistance, safety protection, compensation of loss, assistance in litigation, and</td>
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<td>Year</td>
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<td>2005.08</td>
<td>Construct a “community supervision and counseling network for sexual assault case parolees” based on the probation system</td>
<td>The technological monitoring system not only integrates the investigation, correction, and probation work of the Ministry of Justice, but also coordinates sexual assault protection by Ministry of the Interior, police administration, and medical treatment from the Health Bureau. Sexual assault perpetrators who are parolees accept community supervision mechanisms and enhance the external control forces.</td>
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<td>2008.07</td>
<td>Promote the improvement proposal for sexual assault cases</td>
<td>Tested by the five police stations in Jilong City, Taoyuan County, Taichung City, Changhua County, and Kaohsiung City.</td>
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<td>2009</td>
<td>Improvement proposal for integrative group services for sexual assault cases</td>
<td>Accommodate the Ministry of the Interior in changing the name of this case to “improvement proposal for integrative group services for sexual assault cases.” Establish an integrative group processing model in the prosecutorial networks, police administration, medical care, and social administration, providing uninterrupted professional group service and avoiding secondary harm to victims</td>
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<td>2011</td>
<td>Executive Yuan amended “Improvement of Crime Victim Protection Act to Crime Victims Protection”</td>
<td>Conducted in 2011, in order to accommodate the 2009 amendment of “Protection of Victims” and protection of the defendant would be more comprehensive, thus this project still needs to exist and be significantly amended, giving it new life so that it can advance with the times, and conform to the purpose of victim protection. Educational promotion, in order to strengthen the protection of crime victim system and enhance protective measures for victims.</td>
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III. Future Outlook

In response to the modern criminology on the protection of crime victims, Taiwan has gone through the periods of enlightenment (up till 1980), exploration (1981-1990), development (1991-2000), and Regulatory reform and innovative solutions (2001 until today). In legislation, “Crime Victim Protection Act,” “Child and Youth Sexual Transaction Prevention Act,” “Sexual Assault Crime Prevention Act,” “Domestic Violence Prevention Act,” “Witness Protection Act,” “Gender Equality in Employment Act (the name was amended to Act of Gender Equality in Employment in 2008),” “Gender Equity Education Act,” “Sexual Harassment Prevention Act,” and “Human Trafficking Prevention Act” have been established and amended. In order to effectively integrate the powers of government and civil organizations, emphasizing the needs of different types of crime victims, to construct a comprehensive protective network and enhance the protection of crime victims in implementing and promoting “Improvement of Crime Victims Protection,” “reduction of repetitive narration by victims in sexual assault cases,” “gentle project,” “community supervision and counseling network for sexual assault case parolees,” and “continuous promotion of improvement proposals for sexual assault cases,” further establishing the “window for reporting major crimes,” “113 women and children protection hotline,” and “joint service office for domestic violence.” In addition, the Taiwanese criminal litigation reflected to some extent the opinions of victims, by incorporating victims in its considerations in each process, with systems such as complaint, agent, indictment, plea, private prosecution, retrial, setting for trial, and incidental civil action procedures, amending The Code of Criminal Procedure Clause 248.1 “accompaniment for interrogation in investigation” and Clause 271.2 “opportunity to narrate opinions on the day of judgment.” In addition, in order to strengthen protection of children and adolescents, Taiwanese courts have significant regulations on the protection of victims in adolescent-related events.

In addition, Taiwan’s promotion of the protection of crime victims is conducted as a dual-track system. On one hand, “crime victim compensation evaluation commissions” at the district courts and branch prosecutors’ offices, and “crime victim compensation reevaluation commissions” at the high courts and branch prosecutors’ offices compensate and protect the “economic” benefits of crime victims. On the other hand, Association for Victims Support provides protective measures that assist those protected with physical and psychological treatment, legal assistance, and life reconstruction. In addition, in order to enhance the protection of crime victims, enhance the contacts and integration of interdepartmental protection of crime victims, the government has implemented “Improvement of Crime Victims Protection” to supplement the Crime Victim Protection Act in the full protection of crime victims.

However, the current overall policy planning in the protection of crime victims in Taiwan has also faced the problems of emphasis on compensation over other rights-protection measures. The judicial procedure still overlooks protection of crime
victim rights, insufficient orientation of victims in the criminal litigation system, insufficient connection in the Improvement of Crime Victims Protection policy promotion, low level of the protection organizations in the hierarchy, unclear orientation of the Association for Victims Support, serious lack of human resources, resulting in the supplanting of professionals by volunteers, unstable government funding, and resources that have not been integrated; these problems urgently need to be resolved.

In response to this problem, recent coping strategies can include establishment of “crime victim protection policy promotional work team,” annual publication of “white paper on the protection of crime victims,” expand professional resources in crime victim protection, and arrange for stable budget to conduct relevant protection work. In the middle to long term, possible coping strategies include establishment of a state-level crime prevention research institute, establishing “act to protect the rights of crime victims,” establishing “protection of crime victims commission” at the Executive Yuan level, and establishing local “centers for protection of crime victims.” Different departments should have exclusive human resources and windows for victim protection, establishing “fund for the protection of crime victims” for uniform authority.
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