



American University of Armenia

Masters' thesis:

*“Criminal Matters- Report Crimes of an Armed Robbery,
Victim’s Recourse and Remedies Prevention”*

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Yerevan, 2006

Abstract

Victims are the most vulnerable part of our society. Therefore, they crave the most protection and support from the State ever possible. In my paper I introduced guidelines dealing with the strengthening of Crime Victim protection within the state system and proposed a strategic plan for implementation of the suggested reforms. Countries like the United States of America, Canada, the United Kingdom, Spain and the Russian Federation were brought as exemplars of leading countries where effective system of protection of Crime Victims is established. Ergo, I introduced a draft law as a basic tool to achieve improvements in the current judicial system of Armenia for reconstructing a better society and the better society is possible if the hand of help be stretched to those who are in most need of it.

1.Transaction description. Public policy/private interest clarification

This study is about reporting Crime of an Armed Robbery in the homes, Victim's recourse and remedies prevention (Crime Victims).

Millions of people all over the world are Victims of crime each year and of course, Armenia is not an exception. There is no way to escape from being becoming a Victim, because as a matter of fact, it is the only the perpetrator who chooses his/her target while the Victim is simply a person who usually happens to be in the wrong place and the wrong time. The statistics reveal that in comparison with the first quarter of 2005 the overall crime in Armenia during the first quarter of 2006 had an increase of 31% from which aggravated crimes comprise the increase of 18, 5% and more aggravated crimes of 100%. Crimes that were committed with the use of weapons had an increase of 56.3% the majority of which still remain undiscovered¹. Moreover, statistics reveal that Armed Robbery in the houses have increased by 24.8%² from 2005 to 2006, January 1.

Armed Robbery is a crime of particular significance to the Victims, their families, neighbors, perpetrators and public officials including the police, investigator(s), prosecutor and some types of NGOs. For Victims it is essential to feel protected in their own country, to have a feeling of safety from being disturbed to enjoy their right to live and possession of property and be protected from invasions of criminals to their houses. There is no doubt that after being reported about the newly occurred incident the police should take all the necessary measures to investigate the crime properly. As a Crime Victim, the person has the right to know what is going to happen to him/her next, what remuneration is guaranteed for him/her by law and by public officials, what are the measures the police will take in a country where,

¹ <http://www.genproc.am/main/am/47/1037/>

² <http://www.genproc.am/upload/File/documents/stat.2006-1.pdf>

unfortunately, high positions employ mostly people who “bought” their posts with money and whether they are ready to face and solve the problems what they were “elected” for.

The next step for Crime Victims is the hope for retrieval for their loss of property and being guaranteed that beside the safety and security after the conviction of the perpetrator they can get back their stolen property, or at least compensation for that.

In addition to all the problems, crime Victims must rely on the existence of the rule of law and justice in the judicial system of the country because usually the direct Victims do not even try to call the police, notify about the accident, and give a description of the perpetrator. By such actions, they grant the chance to the perpetrator to continue robbery; the confidence that he/she was invulnerable; and also left many similar direct Victims, who as the previous Victim remained silent, maybe because of the fear, that no recovery was possible, only he/she would create an additional problem to be revenged by the perpetrator in the future. The purpose of this study is to illustrate, investigate and try to reveal all possible solutions for addressing this problem.

2. Armenian Legal Framework

In Armenia cases of Crime Victims are regulated by the **Criminal Code of RA, 2003, April 18(CC)** and the **Criminal Procedure Code of RA, 1998, July (CPC)**.

Under Article 58 of CPC: The person is recognized as the Victim (injured), who directly suffered moral, physical or proprietary damage by a deed forbidden by the Criminal Code³. The decision on recognition as an injured is conceded by the body of an inquiry, the investigator, the prosecutor or by the court⁴.

³ Article 58.1

⁴ Article 58.2

Article 175 of **CC** defines “Armed Robbery” as an assault committed for the purpose of capturing someone’s property and implemented with violence dangerous for life or health, or with a threat to commit such violence:

1. A person for the commission of an armed robbery is punished with imprisonment for the term of 3 to 6 years with or without confiscation of property.⁵

2. When it is committed in the method of intrusion into the apartment, warehouse and facility with or without using weapons or any other instruments by a group with the prior agreement which indicates the **mens rea** and **actus rea** of the perpetrator(s)⁶ and also repeated crime⁷, the punishment is 4-8 years within the right of the State to confiscate from the robber’s property⁸.

3. When it is committed by the organized group within a certain plan where all the participants divide between themselves their roles in the crime with the intension to inflict large amount with the purpose of theft, by causing serious harm to the health of another and by a person with the two or more crimes envisaged in the Articles 175-182, 222, 234, 238, 269 of this Code is punished with imprisonment for the term of 6 to 10 years with confiscation of property.

In case entirely or in part the elements of the **Article 58** are met the injured of the Armed Robbery gets the “Victim” status; he/she has the following rights and obligations under the **Article 59** of CPC:

1) To know in details what is in the indictment; 2) to provide information and evidences further included into the materials of the case; 3) to give thorough explanations in what circumstances the perpetrator intruded the house; 4) in what conditions they were kept;

⁵ Article 175.1

⁶ objective and subjective intensions of the perpetrator’s actions

⁷ see Article 21 of CC

⁸ Article 175.2 of CPC

5) to declare challenges and motions; 6) to submit corrections in case if he/she does not agree with the investigators and what is written in the protocol; 7) to be aware of the investigatory and other procedure actions; 8) to demand during the participation in investigatory or other procedure action; 9) the inclusion into the protocol of the mentioned action or the court session the records on the circumstances; 10) which upon his/her opinion have to be mentioned; 11) to get acquainted with the protocol of the court session and to bring remarks on it; 12) at the end of the first instance proceeding to receive a copy of it; 13) to participate in the proceeding in the courts of the first instance and review court, to get free copies of all the documents, protocols, verdicts concerning the case; 14) reconciles with the suspect and the accused in cases prescribed by this Code; 15) disagree with the trial regarding the verdict or other final decisions⁹and 16) aftermath the conviction of the perpetrator, the most crucial part is to get compensation for the damages as well as court fees and expenses.

Besides rights, the Victim should follow certain obligations prescribed by law including cooperation with the police and obedience to them, be personally available subject for investigations by the participants of the trial and be asked all necessary questions, try to provide evidences which may prove the alleged perpetrator's conduct and the connection or absence of their connection with the alleged perpetrator.

In case the Victim has been recognized as a civil plaintiff under **Article 60** the following step for the Victim should be the brought of a Civil Suit for compensation due to the **Article 158** where the Victim can file a suit at any time beginning from the initiation of the case until the retreat of the court for the delivery of the verdict against the suspect or the

⁹ In case of disagreement of the verdict , the Victim and/or perpetrator may appeal due to the **Article 38** of CPC

accused and where the fixed amount for the recovery of damages and recovery of the Court fees and expenses under the **Article 169**¹⁰ will also be included .

3. Case Study

Victims face various problems during the entire trial procedure and afterwards. Interviews conducted with the experts comprising of mainly lawyers and advocates (who provide the proven data) claiming that Victims' rights are completely protected based on the **Article 59** moreover, if in the past they did not have the right to appeal in the Court of Cessation nowadays it is available under the existing Code. Along side the positive changes; there are still some shortcomings which have their impact on Victims' rights and their protection. For example, the rights to non-pecuniary damages are not regulated by the CC therefore no one has the right to claim though he/she has suffered from them morally and psychologically and even if the consequences did a lot of harm to the Victims' perception of the surrounding and their selves no authority takes it into account, dealing with the case result.

Here are three issues indicated in the cases:

- ✓ The police misconduct and inadequate investigation;
- ✓ Circumstances when Victims cannot get any compensation; and
- ✓ People's mistrust to the police.

In order to prove the police's misconduct and/or inadequate investigation the best example is the case which also touches some of the shortcomings mentioned above. It is an organized group created in 1992 which consists of three people including Armen Saghatelian (the head of the group as the most experienced one), Gurgen Manasyan and Narek

¹⁰ Court fees and expenses will either compensate the offender if he has financial resources, if not it will be paid at the State budget expense under Article 168.2

Harutyunyan¹¹. This group periodically organized various crimes; most of them were committed in the period of 1999-2004 and among them are attacks on the police, car theft, bank robberies, but the perpetrators were caught only in twelve years time, exactly in 2004¹². In 1993 the group invaded the house where the wife, the husband and their sixteen-year-old son (the whole family) were present at that moment, corded up their hands under the gun and demanded to show where the money and jewelry are then they took 1048 USD and additional 120.000 Russian rubles. Unfortunately, the perpetrators were not satisfied with the amount they found and continued to torture the family: regularly beat the son and the husband, then put the gun on the head of the son by threatening to kill him in the presence of the parents in case they do not give all the money they have, their son will be dead. The family was in the deep emotional stress, fear and uncontrolled condition as on the one hand the criminals covered their faces with the bed blanket and beat them cursing and threatening violently, they made the iron hot and promised to put it on the back of the father, on the other hand they had nothing else to be given to the criminals as they were not as much rich as the perpetrators had expected before. No hope to be released from their hands and safe life seemed to be a dream for them. And the perpetrators left the house, only after they believed that the homeowners were telling the truth.

Hence, if the perpetrators had been caught during their violent and rude activities or even afterwards, the measures would have been taken to reduce the upcoming incidents on the same issue.

Another case is in the Urc Neighborhood where a newly-wedded couple with their friend was enjoying their weekend in the summer cottage. Two perpetrators Arayik Davtyan

¹¹ This is a real case, and facts with the dates are also real, only the names and the place is changed because the case is from the archive of a lawyer, who did not want to disclose his name

¹² The group was created in 1992 as it was mentioned above

and Harut Amiryan (the names are changed)¹³ appeared inside the house. It was easier because the house was unlocked. They pushed Victims on the floor and started to beat them brutally so after the incident Victims were taken to hospital with serious injuries (brain shock, nervous breakdown, etc.)The perpetrators took 9.500 Euro, 500.000 AMD, jewelry and also some other valuable things. When the perpetrators were caught, the prosecutor discovered no money and jewelry and no hidden property to be taken back and given to Victims as the compensation price. Unfortunately, due to the current law, Victims should wait till the perpetrators release from the jail and find a job in order to pay the compensation fee with percentage. There is also a high risk that the perpetrators would not remain alive after so many years of punishment under extremely hard circumstances and, of course, no chance to get compensation and no word had been uttered about compensation for non-pecuniary damages. These data prove that our Victims were not fully protected as it was not their fault the perpetrators did not have any financial sources and the state authorities did not undertake adequate measures for Victims to take benefits of their rights stated under the **Article 158**¹⁴.

The last case is about the Victim's mistrust of the public officials¹⁵. In 2004, when a young mother with two little children was sleeping, she suddenly heard voices from the corridor at 01:00 am, and then saw three criminals armed with guns. She did not attempt to defense herself and her kids' lives as she was too scared. Moreover, as her husband was in Russia, and no hope was left that someone would come to protect them, she agreed to give everything she had including money, jewelry and whatever the perpetrators decided to take. Fortunately, the perpetrators went out without beating her and the kids, and she immediately called her brother who at that moment was working at the police station. There were various ideas and suggestions related to the incident details and taking into consideration all the pros

¹³ Ibid 13

¹⁴ Under Articles 158.2 and 158.3

¹⁵ This case is a real case that had happened with my friends neighbor

and cons, they came to the conclusion that the police could not help them, no perpetrator was going to be convicted as there was no necessity to risk the lives of the kids for the second time. This is one of the similar cases¹⁶ that remained unpunished and no doubt that the criminals would commit another similar crime with the same “handwriting and tools”. The major problematic issue is that even the policeman (whose sister was the direct Victim) working inside the law protection system could not be relied on in favor of his sister, so let alone the others. This is really unbelievable that in the doorstep of the 21st century, problems like these still exist in the “democratic” country which has a great desire to be integrated into the Euro Union.

4.Step- by - Step Description of the Transaction

The main steps for a victim contain:

1. The first step that every Victim must do is to report about the incident including his/her name, address, telephone number, the contacts of possible Witnesses (neighbors), the name(s) of the perpetrator(s) if recognized, the full description of the event/incident and also the approximate estimation of loss or exact sum of money if it is known by the Victim¹⁷.

2. Police investigation which may include interviewing Victims, witnesses, suspects, visiting the place of the incident , not only taking photos and finger-prints but also gathering directly relevant documents, data to the case from the place the incident and/or event took place. Then all these records are inserted in the case file keeping the case investigation going¹⁸.

¹⁶ Based on the interviews with D. Lalayan (lawyer in the private Advocate's Company) and T Yayloyan the best Civil and Criminal lawyer in Leninakan, moreover as Mr. Lalayan insisted, sometimes police themselves convince not to report, because they wanted to hide the Crime rate in their area. This case happened in Leninabad.

¹⁷ See in the Appendix B, "The Law of Republic of Armenia on Police, 2004", Article 11

¹⁸ Ibid, Article 20.1

3. In case there are sufficient grounds based on the evidences collected against the suspect for the commission of the crime, the Investigator, Preliminary Investigator and the Court can arrest the suspect blaming him/her as the accused and trying to charge.

4. Criminal prosecution will not start for one thing in case of reconciliation between the Victim and the suspect or the accused for another thing, in case of expiration of statute of limitation¹⁹.

5. The proceedings by the public officials may be suspended if there is no information on the location of the suspect; if the suspect has immunity; if the suspect cannot be present in the trial because of his/her serious health problem or is out of the Republic of Armenia.(**Article 31, 297**).

6. At any stage of pre-trial proceedings the prosecutor, the investigator and preliminary investigator, evoking certain circumstances that reject the criminal prosecution are making a decision on refusal from criminal prosecution. The prosecutor is also authorized to make such final decision even after taking the case to the court but at least, not later than the beginning of the careful examination of the case in the court session (**Article 35.3, CPC**).

7. After the preliminary inquiry, investigation of the existing data and adopted resolution on the grounds to charge a person as the accused, the case with sufficient proofs attesting to the commitment of crime by the accused goes to the court. The civil plaintiff may be the third person whose property has been stolen. For example, the civil plaintiff was not present at the incident/event physically but he has suffered from some moral and financial loss, as all the property stolen by the perpetrators belonged only to her/ him.

8. The first stage of the criminal proceeding is constituted by the single judge in the Court of First Instance (**Articles 38, 39.1**). Besides the single judge, the witness to a search,

¹⁹ Article 35.6 of CPC

the secretary of the Court Session, the interpreter (if necessary), the expert, the specialist and the witness shall also be present at the proceedings (**Chapter 10**).

9. a. The Victim, the Prosecutor, the Judge, the civil plaintiff, the participants stated in **Chapter 10**, may declare challenges, rejections of the nominations and motions of the alienations from the proceedings of the case based on the **Articles 90-97**.

b. The Court holds a verdict either convicted or acquitted after thorough examination as a result of a testimony of the Victim and estimation of the data (**Article 365**).

10. The second stage of the criminal proceedings is the Appellate Court with the three-judge formation (**Articles 38, 39.3, 387**). The civil plaintiff, respondent have all right to appeal only for the part of the civil claim (**Article 376**).

a. The cases appealed against the verdicts and decisions of the First Instance Court are considered in the Appellate Court of criminal and military cases (referred to below as the Appellate Court).

b. It is entitled that the convicted, the acquitted person, their defense lawyers and legal representatives as well as the prosecutor are to appeal against the verdicts and decisions of the First Instance Court which have not come into legal power. The appeal should be formulated within 15 days after the publicizing of the verdict of the First Instance Court. In case it is delayed, the deadlines are strict to be maintained (**Articles 376, 379**). The appeal shall possess all the data referring to the case such as: " the verdict or decision which is appealed against (full or partially) and the name of the court which made the decision",²⁰ in the availability of the evidences, the Victim confirms his/her demands and the stated evidences must be investigated in the appellate court including the proofs that had not properly been investigated in the Court of the First Instance (**Article 381.6**). Thus, the verdict shall be notified for free to the Victim, suspect and their representatives (**Article 382**).

²⁰ 381.3 CPC,384.6 CPC

c. In the verdict of the appellate court, the following items should be mentioned: on what grounds the verdict of the First Instance Court is considered correct, and why the conclusions in the appeal are groundless (if there are any), what were the grounds for the change in the verdict of the first instance court, either completely or partially. All the issues are solved with the simple majority of the judges' votes (**Articles 393.4; 393.7**).

11. The Cassation Court is the last chance to appeal and its verdict is not subject to be changed (Article 424). The Victim, suspected and the representatives may claim in the period of ten days after the final verdict of the Appellate Court (**Article 412.1**).

a. In the Court of Cassation cases shall be considered by the chairman of the cassation chamber and a panel of judges by majority of votes (**Article 39.4**).

Here are the anecdotal analyses based on the case study and interviews:

12. Based on the interviews, **Article 35.3**, CPC provides an opportunity to our public officials to be engaged in corruption. For example, when the suspect gives bribe to the Prosecutor, and/or the Judge mostly from the money stolen from the Victim of the current case, the Prosecutor based on the power prescribed to him under the current code generally refuse from the further criminal proceedings. By such actions Victims' rights are violated, the perpetrators are released without paying any compensation to the Victim, and the future complains based on the suspicious decision of the Prosecutor, in the majority cases; remain only on the papers without any action taken to defend.

13. Due to the case Armen Saxatelyan and et al, under **Article 28**, CPC the people accused in the commission of several offences, may be merged in a single proceeding by the Investigator, the Prosecutor or the Court. As an organized group all the actions had been committed by the same members and they are suspected for the same crime, therefore there is no necessity to hold the trial separately.

14. In case the suspect is a juvenile under 18 the court may impose educational or reform measures instead of criminal punishment under **Article 443 of CPC**.

15. In case the suspect suffers certain mental problems and may be dangerous to society the court may decide to use compulsory medical treatment instead of penal punishment under **Article 458 of CPC**.

5. International Best Practice

**When our criminal justice system treats Victims as irrelevant bystanders,
they are victimized for a second time.”**

__ President George W. Bush

This section will provide key features of International Best Practice (IBP) regarding Crime Victims Rights issues. This summary is based on the methods and analyses on how these rights are regulated in United States of America (USA), Canada, the United Kingdom, Spain, and the Russian Federation (Russia).

In the USA, according to the Office for Victims of Crime (OVC) statistics 40% of the robberies are being committed with the use of gun²¹ and for each hour 59 robberies are being reported.²².

In common law jurisdictions such as America and Canada Crime Victims are in the better position than the countries indicated above. Victims of those countries are protected by both governmental and non-governmental organizations (NGO's) except for some countries where NGO's are the main assistance services the Crime Victims can apply in the hope of emotional and financial support.

21 Crime in the United States, 1999. Washington, DC: Federal Bureau of Investigation, 2000

22 http://www.ovc.gov/ncvrvw/2004/pdf/low_res_crime_stats.pdf

In the USA 37 States included **Crime Victims' Rights Act** in their State Constitution and all **50 States** recognized Victims' **Bill of Rights**" which is a set of basic rights envisaged for the protection of Victims of crime. Under the Crime Victims' Act of 2004 U.S.C., 18, Articles 3771(a)²³ Victims must be protected from the accused, be notified about the court proceedings and about the date of release or escape of the accused and be provided with full or timely restitution as proscribed by law²⁴. Moreover, the U.S. President George W. Bush signed the law "Justice for All Act of 2004", which expands DNA testing and enhances the scope and enforceability of crime Victims' rights.

The U.S. Department of Justice plays a great role in the protection of Crime Victim's rights within the Fund²⁵ service which owes huge resources and is funded annually by the Congress with the aim to contribute, to help Victims. The Crime Victims' rights are regulated by organizations including the Office for Victims of Crime (OVC)²⁶, the National Center for Victims of Crime (NVC), the National Organization for Crime Assistance (NOVA) and also by various NGO's with the assistance of which Victims are granted with both rights and respect which they deserve.

In another common law jurisdiction such as Canada, Public Safety and Emergency Preparedness, Correctional Service of Canada (CSC), the National Parole Board (NPB), and the Department of Justice Canada have worked together to implement measures to contribute and help Victims. Moreover, there is Central Robbery Bureau and Peel Crime Stoppers²⁷ where Crime Victims, witnesses, relatives and others can report the crime or provide interesting information about the perpetrators. In Canada Victims rights are regulated under **Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003** which

²³ It replaces Chapter 42 U.S.C, § Section10606, Victims' Rights

²⁴ <http://www.usdoj.gov/usao/eousa/vr/cvra/index.html>

²⁵ U.S Code: Title 42, § Chapter 10601. Crime Victims Fund

²⁶ U.S Code: Title 42, § Chapter 10605. Establishment of OVC

²⁷ <http://www.peelpolice.on.ca/>

contains the following guarantees: 1) sympathy and respect, 2) safety and security which must be secured at all stages of the criminal proceeding with appropriate measures taken when necessary to protect **Victims** from intimidation and retaliation, 3) providence of information to victims in accordance with provisions of the prevailing law about policies and procedures, the status of investigation, the progress and final outcome of the proceedings and the status of the offender in the correctional system²⁸, 4) assurance about availability of information about the assistance services, other programs and assistance available to them, and means of obtaining financial reparation.

Crime Victims in both countries have the right to **Victim Impact Statement**²⁹ used at the time of sentencing hearing or pre-trial report which holds the physical, financial, emotional impact of the crime, the harm done to the family concerned, description of the medical and psychological assistance required by Victims, the right to restitution and Victims' opinion of an appropriate sentence of the offender. This method is very useful for Victims who are having difficulties in the court proceedings and cannot properly explain in details about the incident occurred.

Owing to the above mentioned governmental organizations and with the help of hundreds of NGO's, Crime Victims from their local or provincial/territorial services are provided with the following aids: medical and psychological help for emotional stress; explanation of Crime Victims Rights: performance of future necessary steps after the police investigations' statement and in case the Victims face difficulties to speak out during the proceedings they are abetted with preparation of their speech and if necessary, also with the Victim Impact Statement. Furthermore, they are accompanied to the court and explained about

²⁸ Under the Canadian CC, Article **344**, robbery with the use of weapon is convicted from 4 years up to a life imprisonment, and therefore gets the status of the indictable offender

²⁹ U.S. Federal Rule, 32 and Section 722 of the Canadian Criminal Code

rights in regard to lodging an application for compensation including the value of damaged or stolen property, pain and suffering, loss of income and productivity, health services, and finally, Victims are notified about the time the perpetrator will be released.

In England which is also a common law country, Victims of Crime get little protection from public authorities. It is the duty of police to provide evidences to the court about the financial loses of the Victim and it is the right of prosecutor to claim the compensation orders not the one of the Victim. Moreover, the court of England is authorized to consider the eligibility of compensation and take all the necessary steps to ensure the payment of compensation and in case the offender refuses to pay, the court has the power to imprison the suspect³⁰.

According to the Victim Support Centre, an independent charity organization in England engaged in an activity of aiding people to cope with the effects of the crime complains about the source of reliance for Crime Victims which is solely based on contributions donated by NGO's. The legislation drafters only recently enacted **Victim Impact Statement** which embodies the same rights and obligations as the one in the USA and Canada.

In Spain, a country with civil law jurisdiction, Crime Victims' rights are regulated by **Articles 101 and 111 of Penal Code** and **108 and 111 by Penal Procedure Code (PPC)**, according to which they have the right to restitution, reparation and compensation and in case the perpetrator's lack of financial resources, the Victims have the right to free legal council³¹ as prescribed in **Article 119 of PPC**. The Italian judicial system differs from the Spanish in a way that in Italy a Crime Victim can get compensation for both financial and physical

30 Brienen and Hoegen, 2000, 243-294

31 Article119 of Spain Penal Code Procedure

damages only in cases if he/she has suffered from terrorist attacks and cannot be afforded with State compensation right in regard to other crimes, including robbery.

Russia, like Spain, guarantees certain rights to Crime Victims, including the **Constitution of the RA, Article 51** according to which Victims are entitled to compensation. The provisions of Armed Robbery are set forth in the **Article 162.2** paragraphs c. and d. of the **Criminal Code of the RA**, and envisage punishment of perpetrators from 7 to 12 years imprisonment. Article 44.1 of the Russian Procedure Code guarantees financial and moral compensation to the Victims.

Unfortunately, the scope of the problem is not whether the Victims are rewarded with certain guarantees or not, the problem lies in how these rights are provided to the Victims. Because of the lack of confidence in the effectiveness of the law enforcement agencies as a country with the high rate crime, almost 40%³² of the crimes remain unreported in Russia and the two-thirds of these unreported crimes are related to the property crime: different types of theft, robberies and armed robberies³³³⁴. The existence of traditional “corrupted” militia in Russia as well as in all post-Soviet countries, misbehavior by public officials during performance of their duties to ensure public safety, linger behind many laws, yet without any enforcement and stay forever on the paper(s) drafted for implementation. In addition to this, no actions are undertaken by the officials to abet the Victims in case the offender has nothing to compensate. As a result of the procedure described above the Crime Victims feel twice distressed and re-victimized with the thought of realizing that in case of emergency they have to rely on personal abilities to withstand.

³² Latent Crime in Russia, Konstantin K. Goryanov, page 667

³³ Ibid, page 672

³⁴“Reasons for not reporting” given in this book are the followings: no insurance, police can do nothing, police will not do anything, fear/dislike police, solved in myself, don’t know and other reasons.

While drawing a comparison with common law and civil law countries, it proves that Crime Victims are protected more in common law jurisdiction than in civil law countries. The authorities and NGO's in common law countries really make great efforts to aid their Victims to withstand the problems they face. This kind of support encourages the Victims to inform the police immediately about the Crime and deters the future actions of offenders and hence the creation of the "future Victims". All Countries listed in the IBP are in the roll of Great 8 which are the leading countries in the world but due to the different approaches to their criminal justice system and methods used to aid the Crime Victims it is possible to arrive at the conclusion that it does not matter in which high rate jurisdiction a certain country belongs the issue remains: whether the Public Officials of those countries are concerned and encouraged to pay appropriate attention to the Crime Victim problems, whether the Government or State of those countries is ready to allocate additional budget Funds for the implementation of "*yet to be drafted*" strategy plans with the aim of offering the citizens of the world the feelings of security and protection within the borders their own state.

7. Procedure Evaluation

Everyone wants to feel protected by law and live in safety and security residing in a society and voting for his/her high authorities. There is no doubt that Armenian policy and implemented laws should serve for the reduction of crimes and respectively, for the reduction of Victims of Crimes in the area.

It seems that besides Crime Victims' rights to compensation for moral injuries, all other rights are assured to our Crime Victims. That is the policy of the Constitution of the Republic of Armenia, CC and CPC according to the **Articles 59, 158**. Moreover, Armenian Crime Victims have the right to appeal not only because they are not satisfied with the amount of compensation but also because they are dissatisfied with the conviction period. According to the words of Miss Yayloyan the later dissatisfaction is of no efficiency because for the

Crime Victims even the most severe punishment seems so small in regard to the emotional injuries they suffer by perpetrators and therefore, usually many other important cases will wait in the line.

It is also strange that our legislators while drafting the law did not find it necessary to protect Crime Victims' rights for obtaining compensation for moral injuries as being direct contactors with the robbers they most of all deserve for such compensation without providing any evidence or the expert's decision that they really suffered emotionally.

And the shortcomings exist not because of the efficient or not efficient implementation of laws but for their weak or absence of enforcement. It seems that public authorities can never get rid of the traditionally rooted system such as taking bribes for their conduct and/or misconduct of their professional power and therefore usually the justice is in the side of the "payer" (Victim or offender). However, the public officials for their conduct justify such actions with blaming for the low remunerations they get for their profession and it is usually impossible to survive on that amount. Such circumstances threaten many crimes to remain unreported because people are aware of the corrupted judicial system in the country and lack of professionalism of public officials in addition to which no guarantees and protections of their lives they seek to expect from the authorities.

Unfortunately, many cases do not usually go to court because the Victims do not trust the police claims as they lead the case through the path of investigation improperly. They are incompetent and lack the professional skills and experience. Another reason for not trusting the police is: they are uncertain whether their expectations will be met by revealing all the details of the Armed Robbery or whether the compensations will be given as much as they need.

On the other hand, the Victims do not turn to the police because they do not believe in justice and consequently, deep in their hearts, they are sure no suspect is going to be arrested and sent to prison. Moreover the police are mostly the direct “shelter” for the perpetrators and are called a kind of “shareholders” of it. Thus, when perpetrators are found, no money is returned to the owner until a sort of agreement is concluded by money share and maybe, because many of them have no income sources and/or property to confiscate from.

What regards to the police in many cases the police themselves negotiate with the Victims in order to show that there are so many undiscovered cases in the country³⁵ and to pretend that due attention is paid to revealing of all negative issues. Sometimes the police do not want to regulate the situation and many perpetrators continue without the fear of being caught by the police. Therefore, the statistics of crime is increasing year by year and there is no justice, no law and no enforcement. Only in some cases some officials are fired from their jobs.

Whether International Best Practice will give some positive results to Armenia it is hard to say, because it will again remain on the papers until the Government and the legislators will not take necessary measures to combat corruption and make reforms in the judicial systems.

The policy of many Common Law countries to protect their Victims aftermath the crime by giving them assistance through Victim Support Services is absolutely missing in Armenia and one or two NGOs can not provide a proper protection for the Crime Victims because it is impossible to fight against such huge problem all alone. Therefore, unfortunately, Armenia seems far away from giving the required protection and enjoyment of Crime Victims’ rights and also combat Armed Robbery within the next few years.

³⁵ From the interview with Mr. Lalayan

8. RECOMMENDATIONS AND IMPLEMENTATIONS OF REFORMS

The following recommendations are hence needed to be carried out to ensure that appropriate Crime Victims' protection will be guaranteed by such reforms in Armenia. In my point of view, there is no need to brainstorm with the new ideas how to help Crime Victims or prevent crime when many foreign countries achieved a great success within their rules and methods. In order to help Crime Victims it is very essential to acquire support by the Government, the Police Department and NGOs that are sharing the same interests.

My first proposal is to make alterations or add amendments to the Armenian legislature especially in the CPC of the RA that will put Crime Victims in better position. In addition to the reforms in the Code, I recommend to raise salary of the public officials in the judicial system, to create useful methods in cooperation with NGOs for the offenders in the jail and after the release and also to implement a plan for security in the buildings.

First of all in 11 Provinces³⁶ shall be opened **Victims Support Offices**³⁷ (VSO) which is funded by the State budget. Their task and obligations will include all the requirements mentioned in Section IBP. After the creation of such services, the media and broadcasting televisions must properly inform the people about it in order every "future Crime Victim" is aware where to go to for the help. The Office in cooperation with NGO's shall try to compensate Crime Victims in case the offender does not have financial resources³⁸ or even he/she is not found yet, if the damage is very crucial and the Victim does not have any means to survive. Consequently, due to VSO rules³⁹ Victims may have the right to get the first financial assistance in the amount of 150.000 AMD⁴⁰. Under the VSO's obligation, which is compulsory, **shall be** providence with information. The private interest for the creation of such

³⁶ Ararat, Aragacotn, Armavir, Kotayq, Lory, Gegarquniq, Tavush, Shirak,, Syunig, Vayoc Dzor and Yerevan

³⁷ The Office shall be located in the Department of Police in each Province

³⁸ The current law doesn't protect Victim's rights to compensation when the offender can not afford himself to pay.

³⁹ Future reference to the VSO rules

⁴⁰ Armenian Drams

services is the fact that much more Victims will report the Crime with the assuredness that they will get needed protection by the Office while the public interest is that many crimes will be reported and hopefully disclosed so it will help the reduction of “future crimes and Victims”.

The next step by the legislature will be the enactment of “**Victim Impact Statement**” within the same rules as it was mentioned in the IBP section. The policy behind this law is to liberate the Victims from being examined once more and feel the same pain for the second time and also be relieved from hearing replica made by the defendant⁴¹ during the trial. It will also save time to the Court and realize what really happened in details.

And the last law shall be added to **Article 158**⁴² of CPC the Crime Victims rights to moral compensation, the vivid shortcoming in the CPC because each expert during the interview answering the question “what reform will you prefer to add?”, unanimously gave this answer and indicated that in many foreign countries including Russia⁴³ this rule works. The private interest for this rule is to have the right to access to the court for getting compensation without any loss occurred after the Crime because the consequences after suffering morally⁴⁴ can be far harmful than from being damaged financially because many people are having problems in communicating with the people and retrieving to the previous life.

The Police and the Court are incompetent and lack professional skills and experience for the reason that they hold their positions through the corrupted methods and sometimes with the absence of knowledge and imaginations what are they doing there, where the only issue they bother about is how get as much money as possible. Thus, the problem of

⁴¹ According to the expert T. Yayloyan, sometimes defense is asking very irritating questions

⁴² Like new paragraph, 158.4

⁴³ Armenian CPC was translated from the Russian CPC,

⁴⁴ Moral loss is explained as non-pecuniary damages

corruption always exists in the judicial system and moreover, as Miss Yayloyan indicated, sometimes even the prosecutor makes deal with the perpetrator by sharing the property stolen from the Victim and has a great impact on the summary judgment of the case in favor of the perpetrator. Accordingly, I suppose a proposal to **combat corruption** in the judicial system by the following methods;

✓ **Testify** the staff members of the Police and in the entire Courts⁴⁵ through the NGOs without the disclosure of information that these members are going to be testified;

✓ **Raise salary** of those people who passed the exam and monitor their future functions through the same NGOs;

✓ **Provide** above mentioned people **Life Insurance** so that they will go to a risk during the fulfillments of their obligation in front of law being confident that they and their family will be provided adequate help and financial assistance in case of harmful outcome.

Another proposal is taking the measures in order to **prevent the robber's intrusion into the houses**; there should be implemented plans that on each building's first floor to be provided security that will control entrance/exit of the visitors. The financing of this system will be carried out by the inhabitants of such buildings as they will be interested in the security and safety of their lives. The public interest for this reform is that many young unemployed can find jobs taking into account the existence of many buildings in Armenia. On the other hand, the perpetrator(s) will not go to the risk to enter such buildings; consequently this method will reduce Armed Robbery in the houses.

And my last proposal is to encourage and support **NGOs** who deal with the Crime Victims in a way of adoption of a new tax system under which any **businessman** who will make donations at the amount of 2 million AMD must be exempted from **taxes**.

9.Conclusion

⁴⁵ The First Instance Court, Appellate Court and Cessation Court

The aim of this paper was to illustrate and to analyze how “Crime Victims” is regulated in Armenia. The paper gave a thorough description of Crime Victims rights after reporting a crime in the entire trial proceedings. In practice Armenian Procedure Code provides adequate rights to Crime Victims but because of the lack of enforcement of the laws, lack of professional skills of public authorities and/or their disrespect towards their duties, Crime Victims are yet in poor condition. This fact may be proven according to the latest Crime Statistics mentioned above which indicates, unfortunately, that the rate of crimes are still increasing and public authorities do not take adequate measures to combat crimes. However, it may also be connected with the economic condition in the country and lack of job vacancies there.

In this paper I also made recommendations that legislation provide for special measures to ensure protection for Crime Victims, to adopt a draft law introducing Victim Impact Statement which will be presented to the judge prior to the trial where Crime Victims will have an opportunity to affirm what had happened to them, what damages they have suffered. Crime Victims should also obtain sufficient assistance from the Government and NGOs including ready access to compensation and restitution. The significant changes should be made in the police and court infrastructures with the help of NGOs that will monitor their actions in order to combat corruption. I made some recommendations in regard to robbers to assist them before and after the release from the imprisonment again with the help of NGOs and the assistance may help to reduce Armed Robbery in the future and consequently reduce the number of Crime Victims. It is crucial the fulfillment of these recommendations for the protection of Crime Victims, their right to recourse and remedies but unfortunately, a person can not all alone combat for the protection of Crime Victims rights as it is the primarily responsibility of the Government and the Police to protect.

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Appendix A

Interview with Miss Tamara Yayloyan, one of the famous advocates in Criminal and Civil cases in Lenianakan, Shirak Province

Lilit (L)_ Hello, Miss Yayloyan. I would like to ask you several questions concerning to the Crime Victims Rights in Armenia for my Masters' thesis. What do you think whether our Victims are protected by law?

Tamara (T)_ Yes, no doubt the Criminal Code and the Criminal Procedure Code of Republic of Armenia guarantee the basic rights to the Victims. They have the right to claim for damages, to declare motion both to the Judge and the Prosecutor. The Victims can also appeal when they are dissatisfied with the verdict of First Instance Court concerning the term of the imprisonment of the offenders and the amount of reparation. I would like to mention that I do not agree with this rule because in the most of the cases Victims due to the pain and the loss they have suffered from that crime think that the judgment is unfair, though it was in accordance with the law, and by such actions they prolong the other Victims cases waiting in the Appellate Court.

L_ Thank you!

L_ What do think whether there is any shortcoming in the law?

T_ Yes. Our Victims do not have the right to claim for moral (non-pecuniary) damages. This is a very important issue especially it lays within the scope of your Master Thesis. There are many cases when the Victim did not suffer from any financial damages, but suffered the *significant* emotional stress, and the law does not afford any right to claim, therefore, this Victim in case there is a necessity to refer to the psychologist will have to pay personally, and if he/she does not have any means to pay, will remain not abetted.

L _ What will you say about the impartiality of the trial system? Whether the Victims get the fair compensation they have suffered?

T_ It is a complicated issue to answer openly. In some cases, the Prosecutor and the Defendant enter into a deal, and decide the case in favor of the defendant, though there are clear evidences of the guilt of the offender. And sometimes, which is very sad to argue, the Prosecutor and the Defendant *share* the money which was stolen directly from the Victim's house and facilitate to the judgment in a way that the offender is finally acquitted.

L_ And the offender, of course, will continue, for example, to rob the houses? It is understandable the offender in the future will attempt to use the same methods and remain unpunished.

T_ Yes, you are right.

T_ Here is another problem that Victims face when the compensation is awarded by the court. For example, in case the offender does not have any financial resources to pay, even any property to sell in order to pay the awarded compensation, the law does not guarantee other tools for the Victims to be compensated except that the offender will have to pay from the salary he/she earns in the jail, or after the release if the offender will find a job.

L- What reform will you offer to be implemented?

T_ I think, it is essential that every person, it does not matter in what sphere he/she works be honest, and respect the law, and will not engage in the corruption. I am really sure, the existence the rule of law, the impartiality of the public official, and the increase in the salary will guarantee that we will have strong judicial system, and why not, protected Victims.

L_ Thank you.

T_ Thank you.

Appendix B

Criminal Code of Armenia

Chapter 21.

Crimes against property.

Article 175 Banditry (Robbery with Violence)

1. Banditry, i.e. an assault for the purpose of capturing someone's property, committed with violence dangerous for life or health, or with a threat to commit such violence, is punished with imprisonment for the term of 3 to 6 years, with or without confiscation of property.

2. Banditry committed:

1) by a group with prior agreement;

2) in large amount;

3) by illegal entering an apartment, warehouse or facility;

4) by using a weapon or other item as weapon,

5) repeatedly, is punished with imprisonment for the term of 4 to 8 years, with confiscation of property.

3. Banditry committed

1) in particularly large amount with the purpose of theft;

2) by an organized group;

3) inflicting grave damage to health,

4) Action committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 6 to 10 years, with confiscation of property.

4. In this chapter, by petty amount we mean the amount (value) not exceeding 5 minimal salaries established at the moment of committal of the crime in the Republic of Armenia.

In this chapter, by significant amount we mean the amount (value) not exceeding 5 to 500 minimal salaries established at the moment of committal of the crime in the Republic of Armenia.

In this chapter, by large amount we mean the amount (value) not exceeding 500 to 3000 minimal salaries established at the moment of committal of the crime in the Republic of Armenia.

In this chapter, by particularly large amount we mean the amount (value) exceeding 3000 minimal salaries established at the moment of committal of the crime in the Republic of Armenia.

In this chapter, in envisaged cases, embezzlement is considered repeated, if it was committed by a person who committed a crime under Articles 175-182, 234, 238, 269 of this Code.

The prosecution of persons who committed theft (Article 177, part 1) or swindling (Article 178, part 1) or embezzlement, or squandering (Article 179, part 1) with respect to persons considered to be close relatives of the aggrieved is done based on the complaint from the latter.

Armenian Criminal Procedure Code

Article 58 The Injured

1. The person is recognized as the injured, in respect to whom bases are available to suppose, that a moral, physical or proprietary damage has been caused to him/her directly by a deed forbidden by Criminal Code. A person also is recognized as aggrieved, to whom moral or physical damage might be directly caused, if the deed, forbidden by the Criminal Code would have been finished.

2. The decision on recognition as an injured is passed by the body of inquiry, the investigator, the prosecutor or by the court.

Article 59 The Rights and Obligations of the Injured

1. The injured has the right, in the manner prescribed by this Code:

- 1) to know the essence of the indictment;
- 2) to give evidences;
- 3) to give explanations;
- 4) to present materials for the inclusion into the criminal case and examination;
- 5) to declare challenges;
- 6) to declare motions;

7) to object against the actions of the bodies of criminal prosecution and to demand on inclusion of his/her objections into the protocol of the investigatory or other procedure action;

8) to get acquainted with the protocols of the investigatory and other procedure actions, in which he/she participated, and to submit remarks on the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory or other procedure action, the inclusion into the protocol of the mentioned action or the court session the records on the circumstances, which, upon his/her opinion, have to be mentioned; to get acquainted with the protocol of the court session and to bring remarks on it;

9) to get acquainted with all materials of the case, from the moment of accomplishment of the preliminary investigation, make copies from them and to write out from the case any data in any volume;

10) to participate in the sessions of the court of first instance and review court;

11) to receive upon his/her request, free of charge copies of the decisions on the abatement of criminal proceedings, on inclusion into case as an accused, the copy of the indictment or final act, and also the copy of verdict or other final decision of the court;

12) appeals the actions and decisions of the body of inquiry, the investigator, prosecutor, the court, including the appeal of the verdict and other final court decision, as established in this Code;

13) reconciles with the suspect and the accused in cases, prescribed by this Code;

14) objects to the appeals of other participants of the trial regarding the verdict or other final court decision;

15) receives the compensation, stipulated by law, of the damage caused by unlawful actions;

16) receives the compensation of expenses incurred during the criminal proceedings back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the documents, belonging to him/her; receives back the property belonging to him/her seized from the person, conducted a deed forbidden by the criminal law;

17) get back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the documents, belonging to him/her;

18) to have a representative and to terminate the powers of representative.

2. The injured has the following obligations:

1) arrives upon the call of the body, conducting criminal proceedings;

2) gives evidences upon the demand of the body, conducting criminal proceedings;

- 3) presents the items, documents and also samples under his/her discretion for the comparative study upon the demand of the body, conducting criminal proceedings;
- 4) to be subjected to examination upon demand of the body, conducting criminal proceedings on the crime supposedly committed with respect to him/her;
- 5) to be subjected, upon the demand of the body conducting criminal proceedings, to the medical investigation in order to check the ability to perceive and to reproduce correctly the circumstances, subject to discovery in criminal case, if forcible arguments are available to suspect the lack of such abilities;
- 6) obeys the legitimate instructions of the prosecutor, the investigator, the body of inquiry, obeys the legitimate instructions of the presiding person;
- 7) observes the order at the court session.

3. The injured has also other rights and bears other obligations, prescribed by this Code.

4. The aggrieved enjoys the rights belonging to him/her and executes the obligations imposed on him/her personally or, if it is corresponding to the nature of respective rights and obligations, through a representative. The rights of the juvenile or incapable aggrieved are exercised instead of them, by their legitimate representative, in the manner, prescribed by this Code.

5. A legal entity, to which moral or material damage was caused by the crime, can be recognized as the injured party. In this case the rights and obligations of the of the aggrieved party are exercised by the representative of the legal entity.

Article 60 Civil Plaintiff

1. A physical or legal entity, which prosecutes a claim during the proceedings of the criminal case, with respect to which sufficient bases are available to assume, that a material damage, subject to compensation in the manner of criminal proceedings, was caused to the latter upon a deed forbidden by Criminal Code, is recognized as civil plaintiff.

2. The decision on recognizing as civil plaintiff, is passed by the body of inquiry, the investigator, the prosecutor or the court.

Article 61 The Rights and Obligations of Civil Plaintiff

1. The civil plaintiff, with a purpose of the support of the claim prosecuted by him/her, has the following rights in the manner prescribed by this Code:

- 1) to know the essence of the indictment;
- 2) to give explanations on the claim submitted by him/her;
- 3) to present materials for the inclusion in the criminal case and examination;
- 4) declare challenges;

- 5) declare motions;
- 6) to object against the actions of the bodies of criminal prosecution and to demand on inclusion of his/her objections into the protocol of the investigatory or other procedure action;
- 7) to get acquainted with the protocols of the investigatory and other procedure actions, in which he/she participated, and to submit remarks on the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory or other procedure action, the inclusion into the protocol of the mentioned action or the court session the records on the circumstances, which, upon his/her opinion, have to be mentioned; to get acquainted with the protocol of the court session and to bring remarks on it;
- 8) to get acquainted with all materials of the case, from the moment of accomplishment of the preliminary investigation, make copies from them and to write out from the case any data in any volume;
- 9) to participate in the sessions of the court of first instance and appellate court;
- 10) to address the court with a speech and a remark;
- 11) to receive upon his/her request, free of charge copies of the indictment or final act, and also the copy of verdict or other final decision of the court;
- 12) to appeal the actions and decisions of the body of inquiry, the investigator, prosecutor, the court, including the appeal of the verdict and other final court decision;
- 13) to recall any objection given by him/her or his/her representative;
- 14) to issue objections, in the part regarding the claim submitted by him/her, on the appeals of other participants of the trial on verdict or other final decision of the court;
- 15) to express at the court session opinions regarding the motions and proposals of other participants of the trial;
- 16) to protest against illegitimate actions of other parties;
- 17) to object against the actions of the presiding person;
- 18) to have a representative and terminate the powers of representative.

2. The civil plaintiff has also a right in the manner, prescribed by this Code:

- 1) to refuse from the claim at any moment of the conduct of criminal proceedings;
- 2) to receive the compensation of the expenses, incurred during the proceedings of the criminal case;
- 3) to receive back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the official documents, belonging to him/her.

3. The civil plaintiff has the following obligations:

- 1) to arrive upon the call of the body, conducting criminal proceedings;
- 2) to ensure the presentation to the court of copies of the claim equal to the number of civil defendants;
- 3) to present the items, documents and also samples under his/her discretion for the comparative study upon the demand of the body, conducting criminal proceedings;
- 4) to obey the legitimate instructions of the prosecutor, the investigator, the body of inquiry, to obey the legitimate instructions of the presiding person;
- 5) to observe the order at the court session.

4. The civil plaintiff can be summoned on as a witness.

5. The civil plaintiff has also other rights and bears other obligations, prescribed by this Code.

6. The civil plaintiff enjoys the rights belonging to him/her and executes the obligations imposed on him/her personally or, if it is corresponding to the nature of respective rights and obligations, through a representative. The rights of the juvenile or incapable aggrieved are exercised instead of them, by their legitimate representative, in the manner, prescribed by this Code.

Article 158 Bringing of a Civil Suit

1. A civil suit in a criminal proceeding may be commenced at any time beginning from the initiation of the case until the retreat of the court for the delivery of the verdict.

2. A civil suit may be brought against the suspect, the accused or a person who can bear property responsibility for the actions of the accused.

3. The claim statement should indicate what criminal crime, who, to whom, on what ground and in what amount the suit is being brought. It should also contain a request about the exact amount of the recovery of damages.

Article 159 Rejection to Accept a Suit Statement

The body which carries out the criminal proceeding may refuse to accept a suit statement if it does not correspond to the requirements of the present Code.

Article 160 Provision of the Compensation on a Civil Suit

The inquiry body, investigator, prosecutor or the court shall take measures to provide a civil suit upon submission of a petition by a civil plaintiff or his representative as well as by their own initiative.

Article 169 Recovery of the Court Costs

1. Court costs mentioned in paragraph 1-6 of the first part of Article 168 of the present Code may be imposed on the accused upon the order of the court.
2. Court shall have the right to partially or in whole exempt the accused from paying court costs, if the accused is insolvent or if the recovery of court costs may have a crucial influence on a future financial situation of the dependents of the accused.
3. If several persons found guilty on the same criminal case the court costs shall be covered by each of them in the amount determined by the court which shall take into consideration the severity of the crime, terms of the verdict and financial situation of each.
4. In case of the accused being a under-aged the court costs (expenses) may be paid by his legal representatives.
5. If the accused dies before the verdict comes into its legal force, the heirs of the accused shall not be responsible for the compensation of court costs.

Article 28 Merger and Separation of Criminal Cases (for step-by-step description)

1. The cases, incriminating several people in the commission of several offences, or incriminating a single person in commission of several offenses, may be merged in a single proceeding by the investigator, the prosecutor or the court.
1. Separation of a criminal case against persons involved in one or several crimes is done by decision of the investigator, the prosecutor or the court, when this is necessary based on the facts of the case and can not affect the completeness and objectivity of the case.

Article 35(6) Circumstances Excluding Criminal Prosecution

1. Criminal case can not be instituted and criminal prosecution may not be started and the instituted criminal case is subject to suspension, if:
 - 6) the prescription has expired;

Article 38. Courts Administering Criminal Justice

In the Republic of Armenia, criminal justice is administered only by the courts of first instance, appellate courts, and the court of cassation

Article 39 Composition of the Court

1. Criminal cases shall be considered by either a panel of judges, or by a single judge.
2. In the court of first instance, all criminal cases shall be tried by a single judge.
3. Appeals on criminal cases shall be reviewed by the appellate court in complement of three judges.
4. In the court of cassation, cases shall be considered by the chairman of the cassation chamber and a panel of judges, by majority of votes

CHAPTER 10 OTHER PERSONS PARTICIPATING IN THE CRIMINAL PROCEEDINGS

Article 81 Witness to a Search

1. Witness to a search is any adult citizen of the Republic of Armenia, disinterested personally in the criminal case, invited by the body of criminal prosecution for the participation in the implementation of investigatory action for the verification of the fact of its implementation, the substance, the course and the results.

2. The witness to a search shall be able to perceive fully and correctly the actions taking place in his/her presence.

3. The witness to the search has the following obligations:

1) to arrive upon the call of the body of criminal prosecution, conducting the investigatory actions;

2) to submit, upon the demand of the body, conducting the criminal trial, and the person, performing the investigatory action, information on his relations with the persons, participating in the proceedings of the respective criminal case;

3) to obey the lawful instructions of the person, performing the investigatory actions;

4) not to leave the location of the performance of the respective investigatory action without the permission of the person, performing it;

5) to sign the protocol of the respective investigatory action, with remarks or without remarks;

6) not to divulge without the permission of the body, conducting the criminal trial, the information, which became known to him/her in connection with the participation in the investigatory action.

4. The failure to perform his/her obligations as a witness to a search, is liable to responsibility, prescribed by the law.

5. Witness to a search has the following rights:

1) to participate in the implementation of respective investigatory action from the moment of beginning until its end;

2) to acquaint himself/herself with the protocol of respective investigatory action;

3) to make remarks as during the implementation of respective investigatory action as well as during the process of familiarization with the protocol, subject to the inclusion in the protocol of the respective investigatory action;

4) to receive the compensation of the expenses incurred at the proceedings of the criminal case.

6. The witness to a search has also other rights and bears other responsibilities, prescribed by this Code.

Article 82 Secretary of the Court Session

1. The secretary of the court is an officer of the court, disinterested personally in the criminal case, who conducts the protocol of the court session.

2. The secretary of the court session has the following obligations :

1) to communicate upon the court's demand or the party information on relations with the persons, participating in the proceedings of the respective criminal case;

2) to set forth in the protocol fully and correctly the actions and the decisions of the court, motions, objections, testimonies, explanations of all persons, participating in the court session, and also other circumstances, subject to the reflection in the protocol of court session;

3) to produce the protocol of the court session within the time limit, set by this Code;

4) to obey the lawful instructions of the presiding person;

5) not to divulge the data of the closed-door court session.

3. Secretary of the court session bears personal responsibility for the fullness and correctness of the protocol of the court session. During the composition of the protocol the secretary is independent from the instructions of whoever regarding the substance of the records entered into the protocol.

4. Failure to perform his/her obligations by the secretary of the court session produces responsibility, prescribed by the law.

5. Secretary of court session has also other rights and bears other responsibilities, prescribed by law.

Article 83. Interpreter

1. Interpreter is a person, disinterested personally in the criminal case, invited by a body conducting criminal trial, for interpretation.

2. The interpreter shall have a free command of the language of criminal proceedings, as well as the language, from which the translation is conducted. The judge and as well as the prosecutor, the officer of the body of inquiry, the defense attorney, the representative and other participants of the trial, the witness to a search, the expert, the witness are not entitled to be interpreters.

3. An interpreter, pursuant to this Code, is considered also a person, who understands the signs of the deaf-mutes people and is capable to communicate with the deaf through signs.

4. The interpreter has the following obligations:

- 1) to arrive upon the call of the body, conducting the criminal trial, for conduct of translation;
- 2) to present to the body, conducting the criminal trial, documents, verifying his/her qualification as an interpreter;
- 3) to communicate, upon the demand of the body, conducting the criminal trial and also the parties, information on his/her professional experience and on relations with the people participating in the proceedings of respective criminal case;
- 4) to be at the location of the implementation of investigatory or other procedure action, in the room of court session during all the time, until it is necessary for him/her to provide interpretation, and not to leave the location of the implementation of the named action without the permission of the person, conducting it, and from the room of court session, without the permission of the presiding person;
- 5) to conduct interpretation fully, correctly and timely;
- 6) to obey the lawful instructions of the prosecutor, the investigator, the body of inquiry, of the presiding person;
- 7) to observe order at the court session;
- 8) to verify with his/her signature the fullness and the correctness of the translation in the protocol of investigatory or other procedure action, in the proceedings of which he/she participated, and also the correctness of the translation in the documents, issued in translation to the persons, participating in the proceedings of the criminal case;
- 9) to not divulge, without the permission of the body, conducting the criminal trial, the information, became known to him/her in connection with the participation in the investigatory action or during the closed-door session of the court.

5. Failure to perform one's obligations by the interpreter produces responsibility, prescribed by the law.

6. The interpreter has the right:

- 1) to ask questions to the persons, present during the interpretation, to make the translation more accurate;
- 2) to acquaint himself/herself with the protocols of investigatory or other procedure action, in which he/she participated, and also, in the respective part, with the protocol of the court session and to make remarks, subject to inclusion to the protocol, on the fullness and correctness of the record of translation;
- 3) to receive compensation of the expenses, incurred during the proceedings of the criminal case.

7. The interpreter has also other rights and bears other responsibilities, prescribed by this Code.

Article 84. Specialist

1. Specialist is a person, personally disinterested in the criminal case, appointed by a body, conducting the criminal trial, for the facilitation in the proceedings of investigatory or other procedure actions with the utilization of special skills and knowledge of sciences, technology, arts, crafts. The specialist may be appointed from among the persons, offered by the participant of the trial.

2. The expert shall possess sufficient professional knowledge and skills.

3. A person specialized in legal issues is not involved in the criminal proceedings. The opinion expressed by the specialist can not replace the conclusion of the expert.

4. The expert has the following obligations:

1) to arrive by the summon of the body, conducting the criminal trial to show necessary assistance;

2) to submit documents certifying one's qualifications to the body conducting the criminal proceedings, investigative and other proceedings;

3) to communicate, upon the demand of the body, conducting the criminal trial, and also the parties, information of his/her professional experience and the relations with the persons, participating in the proceedings of the respective criminal case;

4) to be present all throughout the duration of investigative and procedure actions, in the court room, and not to leave it without permission of the person in charge or the presiding judge;

5) to use one's professional skills and knowledge in the discovery and securing of items and documents, in the use of equipment, asking questions to the expert, assisting the investigation and the parties to the court session with one's explanation of issues within one's professional competence, and to explain one's actions;

6) to obey the lawful instructions of the prosecutor, the investigator, body of inquiry and the presiding person;

7) to keep order at the court sessions;

8) to certify with one's signature the correctness and completeness of records in protocols related to the content and results of his professional actions during the investigatory and procedure actions.

9) ; not to divulge, without the permission of the body, conducting the criminal trial, information, became known to him/her in connection with the participation in the investigatory action or during the closed session of the court

5. Failure to perform by the expert of his/her obligations produces responsibility, prescribed by the law.

6. The specialist has the right:

1) By permission of the investigative or procedural body, to familiarize oneself with the materials of the case and ask questions to the present persons;

2) to turn the attention of the present persons on the circumstances related to the discovery, securing and collection of items and documents, use of equipment, asking questions to the expert, and related to one's own professional competence.

3) to make comments on the discovery, securing and collection of items and documents, use of equipment, asking questions to the expert, and related to one's own professional competence, which are recorded in the protocol;

4) to acquaint himself/herself with the protocols of investigatory or other procedure action, in which he/she participated, and also, in the respective part, with the protocol of the court session and to make remarks, subject to entry in the protocol of court session, regarding the fullness and correctness of the record of his/her actions and oral conclusion;

5) to receive compensation of the expenses, incurred during the proceedings of the criminal case.

7. The specialist has also other rights and bears other obligations, prescribed by this Code.

Article 85. Expert

1. Expert is a person, personally disinterested in the criminal case, appointed, upon his/her consent, by a body, conducting the criminal trial, or upon its demand, by the head of expertise institution or invited by a party for the conduct of research of the materials of the case with the utilization of special knowledge in sciences, technology, arts, crafts and for drawing a conclusion on that basis. The expert may be appointed from among the persons, offered by the participant of the trial.

2. The expert shall possess sufficient special skills and knowledge of science, technology, arts or crafts.

3. A expert specialized in legal issues is not involved in the criminal proceedings.

4. The expert has the following obligations:

1) To submit to the body of investigation, documents certifying one's special qualifications;

2) To give grounded and objective answers to the suggested questions;

3) to refuse from expert assessment, if the suggested questions are beyond the scope of his knowledge, or if the submitted materials are not sufficient to answer to these questions, and to file a conclusion to that effect;

4) to give conclusion not only on the questions suggested, but also on circumstances within his competence which emerged during the expert assessment;

5) At the request of the investigative body, to submit the costs of the expert assessment and a report on expenses;

6) To appear at the summon of the investigative body, to answer the questions of the trial participants and explain the expert conclusion.

7) At the request of the criminal proceeding bodies and parties, to provide information about one's professional experience and relations with persons participating in the proceedings;

8) When participating in investigative actions or proceeding, not to leave the venue of these actions without the permission of the person in charge, or the presiding judge;

9) to obey the lawful instructions of the prosecutor, the investigator, body of inquiry and the presiding person;

10) to observe order at the court session;.

11) not to divulge, without the permission of the body, conducting the criminal trial, information, became known to him/her in connection with the participation in the investigatory action or during the closed-door session of the court.

5. Failure to perform the obligations by the specialist produces responsibility, prescribed by the law.

6. The specialist has a right:

1) To require from the body in charge the criminal proceedings, the necessary objects, samples and other materials for expert assessment;

2) By permission of the body in charge of the criminal proceedings, to familiarize oneself with the case and write out, for the purposes of the expert assessment, necessary data, ask questions in order to perform one's duties properly, to the accused, the suspect, the injured, the witnesses, familiarize with materials related to the case and make notes;

3) To participate in investigatory and other proceedings as much as they relate to the subject of assessment and are necessary for the expert conclusion;

4) to turn the attention of the court and participants of trial to those circumstances which are related to subject of the expert assessment and the formulation of questions suggested to the expert;

5) to acquaint himself/herself with the protocols of investigatory or other procedure action, in which he/she participated, and also, in the respective part, with the protocol of the court session and to make remarks, subject to entry in the protocol of court session, regarding the fullness and correctness of the record of the course, substance and the results of the actions, conducted with his/her participation;

6) to receive compensation of the expenses, incurred during the proceedings of the criminal case.

7. The specialist has also other rights and bears other obligations, prescribed by this Code.

Article 86. Witness

1. Witness is a person, summoned for giving evidences by the body, conducting the criminal trial, as a party, to which any circumstances might be known, subject to revealing upon the given case.

2. The following persons can not be summoned and interrogated in the capacity of the witnesses:

- 1) the persons, who in the force of physical or mental defects are not able to perceive correctly and reproduce the circumstances, subject to establishment upon the criminal case;
- 2) the lawyers, to ascertain any information, which might be known to them in connection with a request for legal assistance or by rendering it;
- 3) the persons, to whom the information, relevant to the given criminal case, became known in connection with the participation in the proceedings of the criminal case in the capacity of defense attorney, the representative of the injured, civil plaintiff, civil defendant;
- 4) the judge, the prosecutor, the investigator, the officer of the body of inquiry, and the secretary of the court session, in connection with the criminal case, in which they have exercised their procedure powers, with the exception of the cases of the investigation of the mistakes or abuses at the proceedings of that case, resumption of the proceedings of the case upon the newly revealed circumstances or the restoration of the lost proceedings;
- 5) the clergyman, on the information, which became known to him from the confession.

3. The witness has the following obligations:

- 1) to arrive upon the summons of the body, conducting the criminal trial, for giving evidences, participation in the investigatory and other procedure actions;
- 2) to give truthful evidences: to communicate everything known to him/her on the case and to answer to the issued questions; to verify upon his/her signature in the protocol of investigatory or other procedure action the correctness of the record of his/her evidences;
- 3) to present the items, documents, and also the samples for comparative examination upon the demand of the body, conducting the criminal trial;
- 4) to be subjected to examination upon the demand of the body, conducting the criminal trial;
- 5) to be subjected, upon the demand of the body, conducting criminal trial, to the medical expertise for the verification of the ability to perceive correctly and to reproduce the circumstances, subject to revealing in the criminal case, if substantial grounds are available to be suspicious in the availability of his/her such abilities.
- 6) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry and the presiding person;
- 7) not to travel to another locality without the permission of the court or preliminary notification the body of criminal prosecution on new residence;
- 8) not to leave the room of court session and the court building without permission of the presiding person;
- 9) to observe order at the court session.

4. Failure to perform, by the witness, of his/her obligations produces responsibility, prescribed by the law.

5. The witness has the following rights:

1) to know, for which criminal case he was summoned;

2) to refuse from giving evidences, convicting him/her, his/her spouse or his/her close relatives in committing a crime; to declare challenge to the interpreter, participating in his/her interrogation;

3) to refuse from submitting materials and information, if they may serve in the criminal case as evidences against that person, his/her spouse, or his/her close relatives; to declare requests[motions?];

4) to use, during giving the evidences, upon the permission of the body, conducting criminal trial, documents and his/her written notes;

5) to draw sketches, plans and charts when testifying;

6) to set forth his/her evidences, given in the course of pre-trial proceedings of the criminal case by his/her own hand;

7) to acquaint himself/herself with the protocols of investigatory or other procedure action in which he/she participated and also, in the respective part, with the protocol of the court session and make remarks, subject to entry to protocol regarding the fullness and the correctness of the record of his/her evidences; to accompany the evidences, given by him/her with drawing plans, schemes and pictures;

8) to receive compensation of the expenses, incurred during the proceedings of the criminal case;

9) to receive back the property, seized from him/her by the body, conducting the criminal trial, in the capacity of material evidences or on different grounds, the originals of the official documents belonging to him/her;

Article 87. The Participation of the Legitimate Representative of the Witness in the Investigatory and Other Procedure Actions

1. The legitimate representative of a witness, who is under age of 14, and, upon the permission of the body conducting the criminal trial, also the legitimate representative of the juvenile witness of higher age, is entitled to know about the summons of the represented person to the body, conducting criminal trial, and participate in the investigatory and other procedure actions, accompanying the represented person.

2. The legitimate representative of the witness, participating in the implementation of investigatory or other procedure action, is entitled to conduct the following:

1) declare motions;

2) object against the actions of the bodies of criminal prosecution and to demand on the entry of his/her objections in the protocol of investigatory or other procedure action;

3) object against the actions of the presiding person;

4) to acquaint himself/herself with the protocols of investigatory or other procedure action in which he/she participated jointly with the represented person, during the pre-trial proceedings of the criminal case and to make remarks regarding the fullness and the correctness of the records in the protocol; to demand, at the participation in investigatory and other procedure action and also at the court session, on the entry in the protocol of the mentioned action or court session of the circumstances, which, upon his/her opinion, had to be mentioned.

3. The legitimate representative of the witness is obliged, participating in the implementation of investigatory or other procedure action to conduct the following:

1) to obey the lawful instructions of the prosecutor, investigator, the body of inquiry;

2) to observe order at the court session.

297. Decree to return the case for additional preliminary investigation

The judge adopts a decree to return the case for necessary investigatory actions only when the court finds out that the inquest and preliminary investigation bodies committed essential breaches of the criminal proceedings law which can not be eliminated during trial.

Article 365. Conviction

The judgment of conviction contains the recognition of the defendant's guilt, subjecting the defendant to criminal punishment and in cases envisaged in this Code, the court decree not to subject him to criminal punishment or exempt him from punishment.

The conviction can not be based on guesses and is adopted only when the defendant's guilt is proved during court investigation. The guilt of the defendant in committing the crime can be considered proved when the court governed with the presumption of innocence, based on inquiry results and reliable proofs, interpreting all unproved suspicions in favor of the defendant, provides affirmative answers to questions contained in paragraphs 1-4, part 1, Article 360

Article 376. The right to appeal

The convict, the acquitted person, their defense lawyers and legal representatives and the prosecutor are entitled to appeal against the verdicts and decisions of the first instance court which have not come into legal force. The civil claimant and the civil defendant or their representatives are entitled to appeal in the part of the civil claim. The injured and his representatives can make an appeal only on the cases instituted on the basis of the complaint of the injured person.

The prosecuting attorney who participated in the case as the prosecutor is entitled to appeal the case. The prosecutor is not entitled to appeal the verdict in the part of the civil claim.

Persons who do not participate in the case as parties also are entitled to appeal on the civil claim, if the verdict or the decision concerns their interests

Article 379 Deadlines of filing the appeal

The appeal is filed with 15 days after the publicizing of the verdict of the first instance court.

The appeals filed after this deadline are left without consideration.

Article 381 Appeal

The appeal must contain:

- the name of the court to which the appeal is addressed;
- data on the applicant, indicating his procedural status, place of residence or accommodation;
- the verdict or decision which is appealed against and the name of the court which made the decision;
- a note on whether the verdict or decision is appealed against in full or partially;
- the conclusions of the applicant on what are the inaccuracies of the verdict or decision and the essence of the appeal;
- if any, other proofs, with which the applicant supports one's demands and which must be examined in the appellate court, including the proofs which the first instance court previously did not consider;
- the list of materials attached to the appeal;
- the signature of the applicant.

In the case when the appeal does not conform with the above requirements, which prevent the case from being considered, the appeal is regarded as filed but is returned by the court for repeated compilation and a concrete deadline is mentioned. This deadline is not included into the deadline for consideration of cases in the appellate court. In the case of failure to submit the appeal within the deadline appointed for repeated compilation, the appeal is regarded as not filed.

Article 382. Notification about the filed appeal

The court, which made the decision or verdict notifies about the filed appeal the convict or the acquitted parson, the accused, the injured persons and his representatives, the civil claimant, the civil defendant and their representatives, if the appeal concerns their interests. The copy of the appeal is sent to these persons with clarification that they have an opportunity to make written objections to the appeal, and the deadline for the objections.

The received objections to the appeal are attached to the case.

The parties are entitled to present new materials to support their appeal and the objections of the other party to that appeal, or petition to summon the witness or expert why

Article 384 Decisions made in the first instance court which are liable to appeal

According to the rules of this chapter, only the final decision of the court is liable to appeal, if not otherwise specified in this Code.

Article 386 The subject of the appeal

Based on the appeal, the appellate court checks the adequacy of discovery of factual circumstances and application of criminal law in the case, as well as the observance of procedural law during the consideration and resolution of the

Article 393 Adopting the verdict

As a result of the consideration of the appeal, the appellate court adopts a verdict which completely or in part replaces the verdict adopted by the first instance court.

The appellate court adopts the verdict by the general rules specified in this Code, taking into account the requirements established in this article.

During the conference of judges, only the judges participating the court for this case can be in the deliberations room. The presence of other persons is not allowed. The judges can not publicize the opinions expressed during the conference.

In the verdict of the appellate court the following should be mentioned: on what grounds verdict of the first instant court is considered correct, and why the conclusions in the appeal are groundless, what were the grounds for the change in the verdict of the first instance court, completely or partially.

The chairman raises the issues for resolution of the court in the sequence and formulation mentioned in articles 360-362 of this Code.

Each judge must give a positive or negative answer to each question. The judges can not abstain from voting. The chairman votes last.

Issues are resolved by simple majority of votes.

For each issue mentioned in article 360 of this Code, first of all, the most favorable proposal for the defendant is voted.

In the case of a special opinion of the judge, is entitled to present it in the written form within 3 days after announcement of the verdict. The special opinion is handed to the chairman and attached by him to the case in a closed envelope which can be opened only during the consideration of the case in the cassation court.

When making decisions, the appellate court is entitled to support its decisions with the testimonies made by persons interrogated in the first instance court but not summoned to the appellate court session.

The whole verdict and each page of it must be signed by all judges. The judge with a special opinion also signs the verdict.

Corrections in the verdict must be agreed upon and approved by the signature of all judges, in the deliberations room prior to the announcement of the verdict.

Announcement of the verdict is done as established in the rules of article 373 of this Code.

Article 412 Deadlines for verdict appealing

A cassation appeal against a verdict of an appellate court, which has not come into legal force, can be submitted within 10 days after the announcement of verdict or the decision.

No appealing deadline is established for verdicts and decisions which came into legal force, except cases envisioned in this Code.

Expired appeals are left without

Article 443 Exemption of the under-aged person from punishment by applying to him disciplinary enforcement measures

When adopting the verdict, the court concludes that the under-aged person can be corrected without using criminal punishment; the court can exempt the under-aged person from the punishment and use disciplinary enforcement measures.

Article 458 Sending the patient to relatives, guardians and tutors

From the moment of establishment of the fact of insanity of the person who committed criminal offence but who is not socially dangerous, the latter can be sent to his relatives, guardians and tutors for supervision, with notification of medical bodies.

The investigator, the prosecutor and the court make a justified decision about choosing this measure.

The Law on Police, 2004

Article 11. The Obligations of the Police in the Combat of the Police against Crimes and other Offences

The Police shall be obliged, in a manner defined by the legislation of the Republic of Armenia, to:

- 1) accept, record and register applications and reports pertaining crimes and other offences and incidents and to set them in motion;
- 2) retain and prevent the crimes and other offences, bring forcibly the persons having committed crime or other offences requiring proceedings, disclose the causes and facilitating circumstances of committing of crimes and other offences and take measures to eliminate them;
- 3) take relevant measures for revealing and disclosing crimes;

4) initiate criminal prosecutions, perform urgent investigatory actions to disclose the persons having committed crime or detect, fix the traces of the crime with the purpose to disclose the crime;

5) perform investigation of criminal cases, arrest of the suspects and other actions foreseen by the legislation, take measures to ensure the compensation of material damages caused by the crime;

6) discover persons having committed crime and hiding from investigation, pre-trial investigation and court bodies, avoiding criminal liability, punishment, persons declared as missing, other persons as well as stolen property in cases foreseen by the legislation;

7) perform:

a) investigation of cases of administrative offences and administrative arrests;

b) search of persons avoiding investigation, trial, punishment as well as other persons and property in cases foreseen by legislation;

c) necessary measures together with the state and public bodies addressed to prevention of crimes being committed by the minors left without control as well as registered in the Police and to their education;

8) assist:

a) the delegates, officials to perform their official duties, when certain citizens do not obey the legitimate demands or impede the implementation of their official activity;

b) the bodies of the national security in the combat against grave offences directed against the state power and in implementation of other measures addressed to ensuring the national security;

c) military registration and enlistment offices to implement recruits' enlistments, military conscriptions and call-up for military service;

d) Prosecutor's office, state and local self-governing bodies, public organisations to implement their official duties;

Performs other duties defined by the law.

Article 20 The Rights of the Police while Discovering and Disclosing Crimes

While discovering and disclosing crimes, the Police, shall have the right in a manner defined by the legislation of the RoA, to:

1) register, photograph, record, videotape persons in custody, persons arrested by the suspicion of perpetration of a crime or persons accused in commission of a crime, receive finger-prints with the purpose to identify such persons, use information systems, sound

recording and filming equipment and other technical and special means for documentation of their activities;