STATE COMPENSATION FOR VICTIMS OF CRIME

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Human rights are innate rights that belong to us because we are human. The Constitution of the People’s Republic of China prescribes that the State must respect and protect human rights. The rights of criminal suspects and victims of crime should be equally respected and preserved by the State during criminal proceedings.

Since the 1990s, the Chinese government has paid attention to the preservation of human rights in criminal proceedings. However, the rights of crime victims were not equally protected under law. The lack of state compensation for victims of crime created difficult economic circumstances for some families. In order to establish a harmonious society and improve human rights, a state compensation system must be created immediately.

I. Protecting Victims of Crime

When crimes are committed, victims’ rights to life, liberty, property, privacy, and other basic rights are infringed upon and human dignity is violated. Protection of these rights has not been sufficiently addressed in either legislation or judicial practice.

A. Criminal Offenses

At present, there are many criminal cases in China that remain unresolved due to lack of evidence. Many victims of crime are unable to find the offender and bring him or her to justice. Statistics show that the number of annual criminal cases in China has surpassed four million, but only 40%–50% of criminals are brought to justice. More than one million victims were left uncompensated for their injuries or economic losses.\(^1\) For instance, in 2004, China’s public security organs

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\(^1\) Zhao Xiaoqiu. 2007. “State Compensation Can’t Solve All Problems.” In Law & Life.
registered 4,718,122 criminal cases, 24,711 murder cases, 148,623 injury cases, 341,908 robbery cases, and 36,175 rape cases; a total of 2,004,141 cases were solved, with a success rate of 42.5%. This statistic means that more than half of the cases will not be subject to criminal proceedings and the victims will not receive any compensation. As a considerable number of the victims were the breadwinners of their families, these unsolved crimes caused significant financial hardship for many families.

B. The Legal “IOU”

Article 77 of the Criminal Procedure Law states “If a victim suffers material losses as a result of a criminal act, he has the right to file a civil suit.” In practice, more than 80% of victims have no means to be compensated, as the vast majority of criminals are not financially capable to do so. As a result, the lawsuit becomes a “legal IOU.” In Beijing, the defendant Ai Xuqiang stole a car and drove erratically down the pedestrian mall Wangfujing, killing three and injuring six. The families of the victims filed civil suits totaling 1.50 million yuan, but Ai Xuqiang was unable to pay. The “legal IOU” nearly always remains unpaid. This situation not only undermines the rule of law, but also makes victims suffer for a second time.

C. Poor Protection of Human Rights

China has made considerable progress in safeguarding the rights of criminal suspects. The Criminal Procedure Law, amended in 1996, reflects the importance of safeguarding human rights. The State Compensation Law of 1994 (国家赔偿法) prescribed that the State shall provide economic compensation for unnecessary detention, improper arrest, or erroneous judgment during legal proceedings. The Political and Judiciary Commission and the Central Party Committee standardized law enforcement and promoted legal justice by adopting an accountability system designed to protect the lawful rights and interests of criminal suspects.

In judicial practice, however, when a case fails to be solved or when a criminal cannot afford to provide compensation, the victims of the

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