

THE VICTIM AND HIS CRIMINAL - "VICTIMOLOGY"

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(1) General perspectives.

These are introductory remarks to the study of criminal-victim relationships. Some call it "victimology", but it might be a questionable title; it is doubtful whether denoting it a specified kind of doctrine or science is justified, rather than accepting it as an integral part of the general crime problem.

"Victimology", a name by which this field of study is designated, is a new appellation, but it does not refer to a new idea. In fact, without using this name, and at least in its essence, "victimology" is known for centuries. As early as the "Holy Three of Criminology", as they are called, Lombroso, Garofalo, and Ferri, did not omit touching upon the importance of criminal-victim relationships. Lombroso, after he made some concessions to factors other than the atavistic biological degeneration, made a hint to passionate criminals who act under the pressure of victim provoked emotions (1). Raffaele Garofalo called attention to victim behaviors which may be regarded as provocation to criminal actions (2). Enrico Ferri, in a somewhat indirect reference, mentioned those "pseudo-criminals", who violate the law because of the "inevitable necessity" of self-defense (3). Gabriel Tarde protested against "legislative mistakes" of neglecting the consideration of motives which may reveal significant interrelationships between victim and his offender, and pointed to "some act of the victim's" (4). August Goll presented a number of Shakespearean criminals who were motivated to crime by their own victims (5); and Josef Kohler

too, referred to Shakespeare's dramas and described a few victim precipitated crimes which were committed "against the special nature" (contra naturam sui generis) of the criminal (6). Franz von Liszt, who devoted so much of his life to the search of a comprehensive criminal typology, recognized the "self-preserving desperate" offenders who act in response to insulted reputation, refused love, shame, and other victim provoked emotional pressures (7); and Seelig, too, mentioned this type, as he called them, "crisis-criminals" (8).

The history of criminal-victim relationships, however, has always suffered from a lack of organized imagination. The subject was treated only with allusions, vaguely, and with simplification; the hints and implications of criminologists of the past do not throw any clear light upon what criminal-victim relationship is really like. The field of "victimology" has a long past, but it has not been developed from its embryonic state and did not evolve its dynamic possibilities.

Responsibility for one's conduct is a changing concept, and its interpretation is a true mirror of the social, cultural, and political conditions of a given era. Each developmental station of human history is reflected by the contemporary laws; the notion of criminal responsibility (or liability) most often indicates the societal texture of the society and the ideology of the ruling power structure. Who is responsible for what and how, is defined by law; and law is made by man. When the victim or his family demanded pecuniary compensation, rather than the death of the offender, this was due to the growing desire for acquisition of private property, rather than to the weary

shape of the perpetual blood-feud. When the victim was deprived of his power to decide the penal consequences of crime, this was due not only to the greed of feudal barons who wanted to gain the victim's share of compensation for their own, but also to the emergence of state criminal justice. When the Soviet court practice tends to punish a murderer, who committed his crime out of jealousy, sharper than the offender of an ordinary homicide, this is not only a reproach for a worthless emotion, but, at the same time, also a sort of disregard of the victim's responsibility for mobilizing a criminal passion.

The interest in the criminal-victim relationship indicates that, again, the understanding of crime is passing through a new phase, and, maybe, it signals the decline of the objective and isolated responsibility of the offender. The birth of this part of the crime problem seems to be prompted by the growing recognition of the demand that criminal justice should not be used against some vague legal phantoms and should not be satisfied by objectivized and formalistic judgments. Criminal justice is for judging the dynamics of crime and treating criminals as members of their group, the one of these is the victim. The study of criminal-victim relationships struggles for the recognition of the role and responsibility of the victim, who is not simply the cause of and reason for the criminal procedure, but has very often a major part to play in the search for a materialistic justice and a functional answer to the crime problem.

In the structure of criminal law the criminal and his victim refer to two distinct categories. However, as proposed by Hentig, "experience tells us that this is not all" and that "the relationships

between perpetrator and victim are much more intricate than the rough distinctions of criminal law" (9).

(2) The victim in the past.

Social control in the earliest history of mankind was in the hands of the primitive man, a lonely individual, who was left alone in his struggle for existence. He had to take the law into his own hands; moreover, he alone made the law, and he was the victim, the prosecutor and the judge in one person, also he himself carried out the punishment that took the form of revenge and aimed at deterrence and compensation.

In that part of the history the criminal-victim relationships mirrored the struggle for survival. Probably, not the idea of responsibility, but security of his "social" power and prevention of future crimes guided the victim to ruthless retaliation and aggressively acquired compensation. Attack was the defense against attack, and the state of war between criminal and his victim made the sufferer a doer and converted criminals to victims.

When the first primitive groups developed, the social control went over to the hands of the kindred (this, and not some severe degree or bloody nature of revenge explains the word "blood" in the term "blood-feud"), and supra-familial or state controls were not known. Very often, the position of the individual victim was identified with that of his family or tribe, and the victim himself was "dissolved" in the wholeness of the clan. Not an individual punished another individual, but families took revenge on families. By this, the concept of "collective responsibility" emerged, a type of liability that has flourished even in our Twentieth Century and resulted in the death of

millions.

This blood-revenge was still a part of the struggle for survival. In addition to relatively minor crimes within the tribe or clan, the important crime type of this era appeared against external threats on part of one family against another one. As if it were the scene of our modern international world, both criminal (one tribe) and the victim (another tribe) wanted to weaken or exterminate each other: "crime" was the violation of the tribal "international law". The blood revenge tested the relations among families.

The blood-feud might have been a sort of pioneer of the responsibility laws. However, since it was informal and had no defined conditions, it cannot be regarded as a social institution. But, as Ihering put it, "all laws started with arbitrariness and revenge" (10). At this developmental station of history, this punishment was not really a response to the criminal's "product-responsibility", but it appears as an expression of social defense. In other words, the attacker and his family were made responsible for endangering the existence of the attacked tribe, rather than for the "product" (that is, the actual objective result) of the attack.

As the material culture reached a level of higher development and possessed a richer inventory of economic goods, these goods could be equated with physical or mental hurt. Thus, a trend toward composition is a noticeable corollary of the social and economic evolution (11). The delictual conditions started to change and the system of responsibility appears to be transformed: blood-feud is fading out and the physical retribution was replaced by financial compensation. The criminal and his

victim introduced the "redemption of revenge" (Loskauf der Rache) and submitted the judgment of guilt to negotiations. However, it was only toward the end of the Middle Ages that the concept of restitution became closely related to that of punishment (12), and was temporarily merged in penal law.

In this period it was unconditionally assumed, that the victim should seek revenge or satisfaction, and this was the only aspect of the criminal-victim relationships that gained recognition. This "composition" combined punishment with damages. This may indicate that the penal law of ancient communities, in which crimes were met by restitution, was not a law of crimes, but a law of torts. *E*

This was not any longer an expression of social defense, but a response to the criminal's product-responsibility. Not the general existential interest of the family, and not the criminal intent or individual guilt of the offender determined the range of composition, but the crime-product; in other words the objective result of the offense served as a guidance of the judgment. However, it was not entirely an undifferentiated product responsibility, and a tariff of the victims made the distinctions. The amount of compensation varied according to the nature of the crime and the age, rank, sex and prestige of the injured party. A closer measuring of man's financial value became necessary (13). A social stratification of the victims developed. Outlawry was the penal consequence of the criminal's reluctance to pay. Thus, the criminal's risk was extreme: the loss of his membership in his group meant the loss of his existence and protection. Without his group his life became meaningless and risky.

✓ B However the golden age of the victim came to an end. When the central power in the communities grew stronger, the community, or better the king or the overlord, claimed a share from the compensation given to the victim, as a commission for its trouble in bringing about a reconciliation between the parties. The injured party's right to this restitution grew less and less, and, after the dividing of the Frankish Empire by the Treaty of Verdun, was gradually absorbed by the fine which went to the state. As the state monopolized the institution of punishment (14), so the rights of the injured were slowly separated from the penal law and damages became a special field of civil law. F

(3) The individualistic, universalistic, and suprauniversalistic orientations.

✓ B The history of the politically organized legal order is, in fact, not much different from the history of criminal liability or, better, responsibility, and shows close connection with the history of the victim. When social revenge replaced the private revenge or blood-feud, and the socially controlled judicial administration of law took away the order-making function from the individuals or familial groups, this reflected developmental changes in the understanding of responsibility and the position of the victim. F It was characteristic to the "Gemeinschaft"-type social structure that the personal identification of the criminal and his victim was not a necessary part of the criminal justice. Judging, criminal conduct, victimization, punishment, damages, all appeared impersonal of nature; also, responsibility had no personal reference, most often the direct addressee of the penal sanction had no causal nexa with the injury or harm-pro-

ducing result of the crime. It has been a long way from this undifferentiated product-responsibility to the responsibility based on differentiated guilt; and, even if the modern law of genocide may remind the superficial observer to the understanding of crime in a "Gemeinschaft"-style (in fact, genocide is a crime against humanity, rather than simply an existential attack against a familial group), only the offender's differentiated guilt can lead him to his punishment.

Responsibility laws and the position of the victim are different in the "Gemeinschaft"-type society from those in the "Gesellschaft"-type social structure, because in the latter the definitions of crime and responsibility are for the protection of a given social order, its conditions, values and interests. The system of responsibilities may be taken as a criminal- and victim-selecting strategy, that reflects the philosophy and ideology of the given culture. While the "private criminal law" was marked by an almost exclusive and dominant role of the victim, in the criminal law of the normative and organized social structure the victim became almost entirely excluded from the settlement of the criminal case. While in the "Gemeinschaft"-societies crime was a violation of the victim's interest, in the "Gesellschaft"-type structures crime is a disturbance of the society; and as a result of that, now "the unfortunate victim of criminality is habitually ignored" (15).

However, in the individualistic atmosphere of the eighteenth century, man demanded the right to pursue his own ends, to act independently, and to have his individuality respected by all. This developed the individualistic understanding of crime, and although at that time

this was a revolutionary change from the Medieval arbitrariness of the judges, it deprived the victim from his power, rights, and potential value of helping criminal justice. Formally the criminal justice functioned for the protection of the victim's individual rights, safety, and integrity, and the punishment was applied against the individual guilt of the offender as adjusted to the wrong done to the individual victim. ^{E 16 to 14} The victim's individuality, however, has been respected only to this extent, mixed with the protection of the given social order. Criminal justice started to intervene with a formalistic and rather bureaucratic legal thinking, communal ideas were just floating in the sphere of abstraction and communal interests could hardly find their way out from their fictional treatment. In this system, where the boat of criminal law developed to be formally overloaded with safeguards of individual freedom, one might expect to see as well integrated participation of the victim. If this was not really built into this individualistic-type structure, this might be due to the state's exclusive possession and control of criminal justice. This system is individualistic, because in this criminal justice the violator of public order is also an offender of an individual victim.

Now this individualistic orientation seems to decline, and some signs are heralding the development of a universalistic understanding of the crime problem. In the universalistic orientation the normative organization and value structure of the society carry deeper emphasis, and the relationship of the criminal and his victim to this social organization and to other members of their group tend to be

one of the important determinants of the general perspectives of judging crime. A universalistic criminology and criminal law tend to direct attention to what might be tentatively called the criminal and his victim's "functional responsibility", rather than to the isolated criminal action or conduct of the offender (16). The universalistic approach to the crime problem apparently started to recognize that the individualistic orientation might have been an enjoyable and intoxicating understanding, but led only to a shrewd confusion of the functioning social forces that often ended up in stiff, static, and formalistic judgments, encompassing only a rather narrow scope of crime.

The individualistic understanding of crime introduced the mastery of abstraction, the rule of the paper, and made criminal justice a mere interpretative machinery of the printed law: the blindfolded goddess Justitia was impartial and knew the law very well, but her bandage deprived her of the sight of complex interactions, group characteristics, and social problems. So remained the criminal-victim relationship, like many other aspects of crime, anonymous to her. The universalistic orientation struggles against this anonymity, and attempts to find the way out from the crisis of this incomplete understanding of crime. It is not aimed at dissolving the individual again in the sea of collectivity, and a universalistic approach to the crime problem is not for making the individual a medium of anti-individualistic goals. However, it proposes the revision or rejuvenation of the concept of the classic-isolated-individualistic guilt and a stronger emphasis on the broader and more extensive concept of a functional responsibility.

In order to avoid misunderstandings, it should be noted, that the use of an extended criminal responsibility is strongly spelled out by the totalitarian exaggeration of this universalistic orientation. This might be called the suprauniversalistic interpretation of the crime problem, where the primacy of a social or, better, political idea is placed not only over individual interests, but also over the conventional group-interests of the society -- in other words, over the interests of the "universe". Thus, it offers direct protection, care, and defense not so much to the individuals and not even to the group, but to the idea itself. The main objectives of this supra-universalistic extension of responsibility are the safeguard of the ideology and, on the basis of its doctrines, the consideration of some modern tariff of criminals and victims.

Since, here, the ruling ideology is the supreme issue of criminal justice, the norms of responsibility and the evaluation of criminal-victim relationships have to yield the supremacy of the governing political idea. "The Soviet distinction," writes Berman, "between theft of personal and theft of state property is probably an essential feature of a socialist system" (17). Not the act, but the whole man is tried, and he and his crime are considered in the context of the ideological goals. Thus, the interpretation of responsibility is necessarily highly subjective. The doer-sufferer relationship is viewed from the angle of the ideological doctrines, and responsibility is weighed and distributed by measuring the social value of the victims or other crime targets.

The suprauniversalistic understanding of crime is even more

markedly expressed in systems where the responsibility is projected entirely to the judgment of the offender's personality. In such systems even the victim's position is dependent upon that, quite regardless of his objective suffering and relationship with his criminal. This distorted revival of the Lombrosian interpretation wished to submit the judgment of human conduct entirely to the supreme ideology and intended to separate the offender from his objective relation to his victim.

This approach attempted to find the "normative type" of the criminal. Accordingly, the penal consequences of criminal responsibility would be decided and determined by the criminal's normatively interwoven deviant personality. This normative typology was designed to assign the right responsibility to the right person. In other words, according to this suprauniversalistic typology, for example, capital punishment should not be inflicted necessarily on a person who actually committed a murder, but on any individual who in view of his total personality should be regarded as a murderer, regardless whether he committed a homicide, shoplifting, rape, or else. Eric Wolf (18) and George Dahm (19), the pioneers of this normative typology, proposed that the public view (Volksanschauung) cannot be satisfied with a simple single symptom (that is the criminal offense itself), and both responsibility and criminal-victim relationship should be judged on the basis of the whole personality of the criminal: the ethically indifferent positivistic individualism should be replaced by the phenomenological personalism.

There are profound differences in the historical development

as well as in the societal context and destination of the universalistic and suprauniversalistic orientations. While the suprauniversalistic interpretation tends to build up metaphysical victims, the universalistic orientation is aimed at a harmony among conflicting responsibilities and attempts to see them in their functional operation.

The universalistic interpretation of crime and, within, the revival of the victim, stands only at its beginnings. If the victim and his relationships with his criminal are still neglected, this might be due to a correctional ossification where the hardening of traditional deterrence and individualistic retribution patterns leaves but little room for the victim's functional participation in the administration of justice. "Deterrence" and "retribution" have had a consistent and uninterrupted success for hundreds of years as the most essential and dominant elements of all penal consequences, always adjusted to the individualistically interpreted harm or injury of the victim, and regardless whether they are named punishment, treatment, rehabilitation, correction, or something else. The penal systems of our world are formally open to the understanding of the "universe", but they do not seem to be changed from being thoroughly riddled with individualistic security distinctions and they appear to remain retributive in their inner rhythm.

Nevertheless, gradually and slowly though, the universalistic approach to the crime problem started to release the victim from his exclusion from the administration of justice. The future points to viewing crime in its structural and dynamic characteristics which includes the criminal-victim relationships and the redefinition of the

responsibility concept.

(4) Early victim typologies.

Hans von Hentig might not have been the first who called attention to the significance of the doer-sufferer interactions, but in the post-war period his pathfinding study made the most challenging impact on the understanding of crime in terms of criminal-victim relationships. He seemed to be impressed by Werfel's well-known novel on "the murdered one is guilty" (20), and suggested that in the long chain of causative forces of crime the victim assumes the role of a determinant. It may be the case that in the complex sociological and psychological situation of crime the criminal is victimized.

Mendelsohn, however, contends for the precedence and claims the origin of the idea for himself (21). He refers to one of his articles (22), published a decade before Hentig's study, which led him to the "gradual evolution towards the conception of Victimology". He is the one who proposed the use of the term "victimology" in order to set up an independent field of study, eventually a new discipline. Mendelsohn does not stand for the united and dynamic evaluation of the crime situation, and he claims the separation of the "two parallel ways". He proposed even a new terminology for this "new branch of science", and introduced terms like "victimal" as an opposite to the criminal, "victimity" as a counterpart of criminality, "potential of victimal receptivity" for the understanding of some individual unconscious aptitude for being victimized, etc. He is the one who suggested a "central institute of victimology", also "victimological clinics", an "international institute for victimological research in the United

Nations", "international society of victimology" and the publication of an "international review" dealing with victim problems.

Both Hentig and Mendelsohn attempted to set up victim typologies, but both based their classification on speculation.

Mendelsohn distinguished according to the division of guilt between criminal and his victim. The correlation of culpability between the victim and offender was his focal factor around which he gathered his victim types. He listed the "completely innocent victim", the "victim with minor guilt", the "victim who is as guilty as the offender", the "victim who is more guilty than the offender", the "most guilty victim", and the "simulating victim". In his views the completely innocent victim is the "ideal" sufferer.

Hentig's typology seems to be more elaborate, and he used psychological, social, and biological factors in his search for categories. In general, he distinguishes born victims from society-made victims, and in his victim typology he classified the following thirteen categories (23):

(1) "The young" victim, who is an obvious type, because he is weak and unexperienced. Hentig suggested that since children do not own property, they are largely exempt from being victims of crimes for profit. If the young happens to be a girl, her victimization is well known in sexual offenses.

(2) "The female" is another general class of victims: "another form of weakness". Younger females sometimes become the victims of murder, after suffering sexual assault; older women become victims of property crimes, being supposed to be wealthy. Since the

great majority of offenders belong to the male sex, there is no physical balance between attack and defense.

(3) "The old" might be yet another preferred victim in crimes against property. They are assumed to be wealthy, at the same time they are weakened both physically and mentally. "In the combination of wealth and weakness lies the danger".

(4) "The mentally defective and other mentally deranged" persons refer to a large class of potential victims. It seems natural that the insane, the alcoholic, the drug addict, the psychopath, and others suffering from any form of mental deficiency are handicapped in their struggle against crime. In Hentig's views the drug addict is the prototype of the sufferer who is a doer.

(5) "The immigrants" are weakened by the difficulties arising from their cultural conflicts. Hentig was not the first and probably not the last who experienced that immigration is not simply a change of a country or a continent, but it is a temporary reduction to an extreme degree of helplessness in vital human relations. Apart from linguistic and cultural difficulties, the immigrant's conflict is often caused by his poverty, and by being rejected by certain groups in the receiving country. His competitive efficiency may develop almost hostile attitudes. It takes many years often of painful experience for the immigrant to adjust to the new technique of life.

(6) "The minorities" position is similar to that of the immigrants.

(7) "The normal dull" are registered by Hentig as born victims -- similar in characteristic behavior to immigrants and minorities.

(8) "The depressed" are psychological types of victims. They

can be characterized by feelings of inadequacy and hopelessness, accompanied by a general lowering of physical and mental activity. The criminal has a way open to victimization.

(9) "The acquisitive" is called by Hentig as "another excellent victim". Desire is not only a motive of crime, but also a way to become a victim. Criminal syndicates, rackets, gamblers, confidence men, and others are relieved in such cases from a certain amount of effort, since the essentials of their criminal attack are already provided by the victim himself.

(10) "The wanton" is also one of Hentig's types, though he thinks of him as "obscured and dimmed by the rough generalization" of laws and social conventions.

(11) "The lonesome and the heartbroken" are also potential victims. Both are reminiscent of the "acquisitive" type, with the difference that it is not the gain or profit, but companionship and happiness that provide the focus of desire.

(12) "The tormentor" features in family tragedies. The alcoholic or psychotic father, who tortured his family and finally was killed by a member of his own family -- is Hentig's example.

(13) "The blocked, exempted, and fighting" victims are Hentig's last categories. He refers here to those who in a losing situation cause self-injury by defensive moves, who are blackmailed, and who fight back. In contrast to the easy victims these are the difficult victims.

In addition to Mendelsohn and Hentig, Barnes and Teeters also mention a victim type, "the negligent or careless" (24). They

refer to those who facilitate crime by their own careless or negligent attitudes. Inadequately secured doors, windows left open, unlocked cars, careless handling of furs or jewelry, etc. pave the way of the offender. An FBI survey also reported careless or negligent banks which made robberies easier (25). Reckless distinguished between "reporting or non-reporting victims"; the "unwillingness" to report is mentioned by him as a condition of the victim who fears the social consequences of his reporting (26).

This abbreviated list of proposed victim-types might be extended further but would not serve any teleological purpose. Personal frustration has many forms and negligence can be split into several types. Besides others, the lonesome, the heartbroken, the blocked may refer to individual psychological situations, rather than to acceptable representations of types of victims. Generally, most victim typologies typify transient social and psychological situations, rather than classified characteristics of victims. They hardly picture the constant patterns of the victim's personal makeup. The "easy" victim and the "difficult" victim appear according to the balance of forces in a given criminal drama. The lonesome are not a permanent prey to the criminal, only at the time when they are lonely. The heartbroken are not always smooth victims, only when they suffer a temporary disappointment. On this basis hundreds of victim "types" can be listed, all according to momentary situational characteristics.

However, indeed there are biological types of victims, who appear constantly exposed to excess risks of becoming victims of crime. To be young, to be old, or to be mentally defective, are not situations

but biological qualities which indicate a more or less lasting relative weakness in defense against the forces of crime. Apart from the biological victims, a typology of the criminal-victim relationships -- that is, the patterns of relatively permanent social situations in which they appear -- may be more promising to increase the defense of those whose weakness cannot be compensated by their personal efforts, to elucidate and explain characteristics of victimizations, to evaluate victim risks and to accommodate crime control and social defense against these risks, and to develop a distributive and universalistic type rejuvenation of the responsibility concept.

(5) Victim risks - empirical studies.

After a number of speculative soundings (27), a few empirical studies tried to come closer to the establishment of these victim-risks.

Marvin Wolfgang's study on the patterns in criminal homicide (28) involved 588 cases in Philadelphia, as listed by the police between 1948 and 1952. Race, sex and age differences, methods and weapons of inflicting death, temporal and spatial patterns, alcohol and violence, previous record, motives, interpersonal relationship between victim and offender, victim precipitation and other aspects were submitted to his research inquiry and revealed challenging results.

Wolfgang found that the distribution of persons involved in criminal homicide shows a sex ratio among victims of about three males to each female, and among offenders a ratio of nearly five to one. In other words, he found higher victim risk for the female sex. His data for age differences show that, in general, victims are older than

criminals and have a median age that is 3.2 years higher than that of the offenders. Concerning methods and weapons of inflicting death, stabbing leads Wolfgang's list of frequency, followed by shooting and beating. Exception appears, however, for white females who as offenders use the pistol most frequently, then a butcher knife, and lastly gas or poison to kill; and as victims, they are most likely to be beaten or shot.

Concerning temporal patterns, Wolfgang found that more Negroes are killed in September than any other month, May is the highest month for whites, and August for females. Also, he found that most white females were killed inexplicably on Thursdays, all other groups on Saturdays, and that "the most lethal hours" are between 8:00 PM and 2:00 AM. Wolfgang found the highway (public street, alley, or field) as the most dangerous place for all categories, but the bedroom for females.

Wolfgang found a significant association between violent homicide and the presence of alcohol in the offender. Among those who killed "non-violently", half had been drinking before the offense.

Also, there is a significant association between previous arrest record with sex of both offenders and victims. More male victims had a previous arrest than female offenders; in general, 54 per cent of the victims who had previous arrest record committed at least one or more offenses against the person, and close to half of all the victims had a previous record of one or another offense. With reference to motives, Wolfgang found that criminal homicides due to general altercations are the most frequent type, domestic quarrels represent

the second largest category, and jealousy proved to be the third strongest motive.

Wolfgang contributed an important body of knowledge to the study of criminal-victim relationships. He analyzed homicide offenders and homicide victims "as mutually interacting participants, and found "both in the active, 'to kill', and in the passive, 'to be killed'". He suggested to study the "dynamic relationship between two or more persons caught up in a life drama", rather than to conclude from static, structural analyses where the criminal and his victim appear as separate entities.

The important changes in English law, made by the Homicide Act of 1957 through the virtual redefinition of the murder, prompted Evelyn Gibson and S. Klein to report on the victims and offenders of murder cases (29). They prepared an analytic survey of murders known to the police in England and Wales from 1952 to 1960; in fact, it is a purely statistical study. In their findings female victims outnumbered males, and this contradicts Wolfgang's findings. Gibson and Klein found the blunt instrument the most common and shooting the least common method of killing; this, again, is different from the Philadelphia results. Quarrels, violent rage, and insanity accounted for most killings, but also jealousy or intrigue and others were recorded among the motives, and this apparently supports Wolfgang's findings. Gibson and Klein concluded, that "those convicted of capital murder are mainly persons who kill in pursuit of criminal activities".

Another empirical study came from Hunter Gillies who made

66 psychiatric examinations of persons accused of murder between 1953 and 1964 in the Glasgow area in Scotland (30).

More than half of his murderer population was affected by alcohol, also diagnosed as psychotics, psychopaths, or subnormals. All of the 66 accused persons have shown frankness with which they would give their histories; as Gillies said, "they were very honest murderers". The majority of the group had previous criminal record, but in no case appeared a charge for homicide. About one third of them were married and living with spouse.

Gillies found but little anxiety over their own predicament as persons accused of the most serious crime. He bitterly claimed, that "armchair theorists are prone to making sweeping generalizations about the roots of crime and about the effects of capital punishment, but it is unrealistic to generalize; there are many sorts of murder and many sorts of murderer", and concluded that "because of the clumsy, chance and unpremeditated circumstances of most of the killings, ... capital punishment could not be expected to be a credible deterrent".

Most of the deaths of the victims resulted from sharp or blunt instrument, and this finding is similar to Wolfgang's and Gibson and Klein's data. In Gillies' study the commonest motivation for the murders was anger and the setting for the affairs was most often a drunken quarrel, and here again there is not much deviation from Wolfgang's and Gibson and Klein's findings.

Stephen Schafer based the procedure of his research on the inmate population of Florida in 1963, limited to those who have been incarcerated for any of "the three major violent crimes", that is

(a) first and second degree murder, (b) aggravated assault, and (c) armed and unarmed robbery, and burglary. He studied 721 cases: 165 for criminal homicide, 217 for aggravated assault, 306 for theft with violence, and 33 for more than one of these crimes.

Generally, he had to experience, that the limited recording of official data and the traceable victims' reluctance in cooperation decisively affected the expected results. The absence of important informations in the State and prison files should be the first lesson of this research, urging the courts, penal and correctional institutions, and State authorities (bureaus of prison, divisions of correction, etc.) to the collection of more extensive and detailed data on both criminal and his victim.

In addition to the experience of this general limitation, his research resulted in 250 findings, not all independent ones and not all statistically significant, but all developed directly from the criminal-victim relationships, and in many more supplementary observations without direct relevance to the victim's role in violent crimes. The findings have been grouped according to the main themes of investigation, that is: variations in sex differences; age groups; income, educational and occupational background; motivation, alcoholism, drug addiction, and mental disturbance; previous criminal record; methods of and attitudes in crime; and, also, combinations of the time and space factors; all for both criminals and victims.

Here, in crimes with violence (criminal homicide, aggravated assault, and theft with violence) male offenders appeared in crime seventeen times more often than females. However, the distribution of victims to sexes proved much closer proportions, although the higher

frequency in victimizations, too, was indicated in the group of males.

Nevertheless, analysis of the three major violent crimes, as they were separate categories, has revealed the relative dominance of females in being victims of criminal homicides and aggravated assaults, but placed the males in the foreground of victimizations in thefts with violence. In a search for causes one should not overlook the essential perspectives of these crimes, where robbery and burglary are offenses primarily for criminal profit, but criminal homicide and aggravated assault are most often based on emotional motives.

It has been found that the most frequently victimized age groups for males are under 21 years and from 51 to 60 years, but females are the victims in the highest frequency if 61 years of age and over. Speculation may suggest the cause of physical weakness for the young, financial maturity for the other male age group, and loneliness for the aging female; but these findings are not well understood. In any case, they seem to support Hentig's propositions.

Marriage itself did not prove to be a crime preventing factor, moreover married offenders led the row of frequency. However, my data suggested, that the lower the number of children in the household of the criminal at the time of crime, and even the lower the number of adults in the household, the higher the chance of violent crime. Also, viewed from the other end of the crime, the lower the number of children in the household, the higher the chance of being victimized.

The family status of the victim proved to be significant in its correlation with the sex of the criminal. It has been found, that females commit violent crimes against their spouse three times more

often than males, and against their child nine times more often. At the same time, it has been revealed, that in absolute figures female spouses are victim of violent crimes three times more often than male spouses.

Generally, the spouse as a victim presented statistically significant patterns. The aging criminal appeared with the highest relative frequency of violent crimes against his spouse, also against his child. Generally, the spouse seemed to be one who is more often attacked than any other relation in the kinship.

A statistically significant trend has been recognized in the combination of age groups. This shows most younger offenders with profit aspirations, and most older criminals aspiring satisfaction of their emotional pressure. The frequency of crimes against property appears decreasing by moving from younger age group toward the old, and the frequency of crimes against person appears increasing if moving from the young toward the older age groups.

It has been a general observation, that criminals and their victims do not show specific differences in educational background and occupational categories. The nature of crimes with violence, that most often indicates a personal drama, may explain the victimization in similar categories: the lawbreaking clash occurs dominantly between those who belong to the same or similar group. The proportion of male and female victims sharply differed in almost all occupational categories, but the clerical and sales occupation presented victims of both sexes in proportions very close to each other. In other words, in this occupational category the risk of being victimized is almost

equally high for males as well as for females.

In the total of all violent crimes the profit appeared as the dominant motivation; nevertheless, this proved to be typical to crimes against property, but the pressure of emotions resulted in most criminal homicide and aggravated assault cases. Alcohol led to violent crimes mainly in case of first offenders, and is relatively more frequent on part of females.

The profit motivation seems to be rather vivid in younger age groups, to 30 years of age, and after that its gradual decline has been observed while the violent criminal is getting older, having been replaced by the motive of emotions. The motive of need (financial need), too, is more typical to the younger age groups.

Emotions and alcohol proved to be the leading motives in violent crimes against the spouse, relatives, and friends, however, the profit seems to lead criminals to attacks against strangers (third persons).

Most criminals, who committed crimes with violence, have been found in good physical and mental health. However, the poorer the physical health of the offender, the higher the frequency of his crimes against the person; crimes for profit (against property) have been observed committed mostly by offenders in good health.

Regarding the correlation between the age of the offender and the resistance of the victim, it has been observed, that the higher the age of the criminal, the lower the resistance of the victim. Provocation of crime on part of the victim occurred most often in cases, where the criminal was in the age group of 21 to 30 years. Passivity

of the victim in the criminal attacks has been found mostly in those cases, where the offender belonged to the age group of 31 to 40 years.

The method of crime, also the time and space factors seemed to play important roles in the criminal drama between the offender and his victim, and their patterns, if established, may indicate risks of victimization.

Combination of time with sex seemed to prove that male offenders tend to commit violent crimes at night time, and the least risk might be assumed regarding female criminals who act in the evening hours. Also, it has been observed that mostly the weekdays are preferred for violent crimes, at least on part of the male offenders: female criminals commit most of their violent crimes on Sundays. The winter and spring months are favored by male violent criminals, and the Fall by the females.

Frequent and intense contact of people on weekdays in daylight may explain the leading position of aggravated assaults at that time, and the rather open opportunities that of thefts with violence. Latter type also occurred in high proportion at night time, when the relative peace in business districts and the darkness help the commission of violent crimes against property. Peak time for criminal homicides is in the evening. The high frequency of thefts with violence in the winter-months may find an explanation in the increased financial need that could lead the decision to criminal alternatives.

Mainly strangers (third persons) are attacked at night time and during the winter months, but strangers are the victims of violent crimes in the highest frequency in general. The evening hours refer to

the time of the day when the least violent crimes are committed. The day of the week does not make much difference in crimes against strangers, but the Saturday stands out in crimes against the spouse, mainly in the Fall season.

Investigation of the space factor resulted in the strongest relationship between thefts with violence and cities with a population of 100,000 and over. This supports the popular belief regarding the connection of crime and opportunity. Theft with violence found strong relationship also with the business districts and main streets, and this, again, agrees with the general common experience. Most criminal homicide and aggravated assaults were committed in residential areas. Significant relationships have been observed between violent thefts and shops or stores, and between criminal homicide cases and houses or apartments.

Night time crimes were committed mainly in big cities, and the lowest risk could be seen with regards to crimes committed in small communities in the evening hours. Also, as it appeared, the big city night time crimes were located mainly in the residential areas. Violent crimes against victims in the business districts have been recorded mainly in daylight and in the winter months. In terms of seasons, the business district appeared to be favored at any time, but the residential areas mainly in the Fall.

It was not well understood, that criminal and victim had their residence in a roughly equal distance from the spot of crime. Most violent crimes were committed by the offender alone or with one criminal partner, proportionately a higher frequency of criminal partnerships has

been observed in night time crimes. The "individuality" of the offender found strong relationship with the winter months, and this again may indicate the increased financial need as the motive of these crimes.

The victim-risk seemed to be the highest in cases of main street-crimes, if the victim was alone, also if he was in a house or apartment alone or in the company of one. Rather low victim-risk appeared for criminal homicide, if the victim had two or more persons around him. Most violent crimes against the spouse have been found in residential areas, but most crimes against the offender's own child in the suburbs.

Profit motive and the use of gun, as the method of crime, have been observed in strong relationship; next to that the relationship between crimes committed under the pressure of emotions and the use of a cutting or stabbing instrument developed significance. The use of skeleton keys or similar instruments did not appear in cases submitted to this research. Spouses seemed to be attacked mainly by using a cutting or stabbing instrument. The use of poison proved to be negligible.

In the investigation of attitudes, passivity on part of the victim appeared mainly in shooting attacks; next to that, however, the victim's provocation prompted the use of a gun.

These are but some highlights of the list of my findings which may carry statistical significance.

I am sometimes a bit suspicious of criminologists who say that their research works went always as they had planned them; mine never did. This is why I am caught by the increasing tendency to conclude with the often justified saying that more research is needed. Hentig,

Mendelsohn, and the very few empirical researchers have set the stage in encouraging fashion for the next steps in this field, but they could not answer all the questions; there is no simple answer to the problem of victim-risks, distributive responsibility in the criminal-victim relationships, and new techniques in social defense. The criminal-victim relationship refers to a long and complex chain of factors, with several inter-related strands. In fact, it is not only the criminal-victim relationship but also the problem of delinquent-victim relationships. Much work has to be done in order to see the real task of the law enforcement agencies and the administration of justice, and the most powerful encouragement to this work is not the constantly growing interest in this problem, but the fact that this problem remained a problem ever since it was posed as such.

FOOTNOTES:

- (1) Gathered from several works of Cesare Lombroso, essentially from the 5th edition of his L'uomo delinquente (Torino, 1896) and Delitti vecchi e delitti nuovi (Torino, 1902)
- (2) Raffaele Garofalo, Criminology, transl. by Robert Wyness Millar (Boston, 1914), p. 373
- (3) Enrico Ferri, Les Criminels dans l'Art et las Litterature, transl. by Eugène Laurent, in French (Paris, 1902), p. 19
- (4) Gabriel Tarde, Penal Philosophy, transl. by R. Howell (Boston, 1912), p. 466
- (5) August Goll, Verbrecher bei Shakespeare, transl. by Oswald Gerloff, in German, with the Foreword of Franz von Liszt (Stuttgart, without date, probably 1908)
- (6) Josef Kohler, Verbrecher-Typen in Shakespeares Dramen (Berlin, without date, probably 1903 and 1907)
- (7) Franz von Liszt, Strafrechtliche Aufsätze und Vorträge (Berlin, 1905)
- (8) Ernst Seelig, "Die Gliederung der Verbrecher", in Ernst Seelig and Karl Weindler, Die Typen der Kriminellen (Berlin, 1949). p. 6
- (9) Hans von Hentig, The Criminal & His Victim, Studies in the Sociobiology of Crime (New Haven, 1948), p. 388
- (10) R. Ihering, Geist des römischen Rechts (Lepizig, 1873), Vol. I, p. 118
- (11) Marvin E. Wolfgang, "Victim Compensation in Crimes of Personal Violence", paper presented to the meetings of the American Society of Criminology (Montreal, 1964), p. 2
- (12) In German laws the word "punishment" (Strafe) first appeared in sources of the fourteenth century; see Herman Conrad, Deutsche Rechtsgeschichte (Karlsruhe, 1954), Vol. I, p. 69
- (13) F. Beyerle, Gesetze der Longobarden (Weimar, 1947), p. 62
- (14) Wolfgang Starke, Die Entschädigung des Verletzten (Freiburg, 1959), p. 1
- (15) William Tallack, Reparation to the Injured, and the Rights of the Victim of Crime to Compensation (London, 1900), pp. 10-11
- (16) Stephen Schafer, "Correctional Rejuvenation of Restitution to Victims of Crime", paper presented to the meetings of the American Society of Criminology (Montreal, 1964), pp. 7-11

- (17) Harold J. Berman, Justice in the U.S.S.R. (revised ed., New York, 1963), p. 163
- (18) Eric Wolf, Vom Wesen des Täters (Berlin, 1932)
- (19) Georg Dahm, "Die Erneuerung der Ehrenstrafrecht", Deutsche Juristenzeitung, 1934, I.
- (20) Hentig, op. cit., p. 384; Franz Werfel, Der Ermordete ist schuld
- (21) B. Mendelsohn, "The Origin of the Doctrine of Victimology", Excerpta Criminologica, Vol. 3, No. 3, May-June 1963, with selected bibliography, among them reference to his unpublished studies
- (22) B. Mendelsohn, "Method to be used by counsel for the defense in the researches made into the personality of the criminal", Revue de Droit Pénal et de Criminologie, Aug-Oct. 1937, p. 877
- (23) Hentig, op. cit., pp. 404-438
- (24) Harry Elmer Barnes and Negley K. Teeters, New Horizons in Criminology (Third ed., Englewood Cliffs, 1959), pp. 595-596
- (25) "Profile of a Bank Robber", without named author, FBI Law Enforcement Bulletin (Washington, D. C., Nov. 1965), Vol. 34, No. 11, p. 22
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- (30) Hunter Gillies, "Murder in the West of Scotland", British Journal of Psychiatry, 1965, III, pp. 1087-1094
- (31) Stephen Schafer, "Criminal-Victim Relationships in Violent Crimes", unpublished research, sponsored by the U.S. Department of Health, Education, and Welfare, 1965.