Victims and Penal Populism

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Abstract

Central to the formation of populist penal policy are victims and the social movements which support them. Extreme support for the victims may lead to strictly populist penal policy. In fact, the victim causes the public to participate in the criminal process. Also, public fear of victimization could intensify the stringency of populist penal policies. Crimes involving specific victims often receive much attention on the part of media, officials, as well as the public. With their expectations of the criminal justice system, victims become involved directly, and in some cases indirectly, in the criminal process, thereby moving penal policy toward populism. As the most seriously harmed individual in a crime, the victim is the main person to report the crime and to begin the criminal process. He or she publicizes the crime, sometimes through exaggerated descriptions, and focuses media attention on criminal issues. It is in these circumstances that penal populism is likely to take place. Furthermore, movements who support victims can also contribute to penal populism by means of addressing specific demands to the criminal justice system. The present paper seeks to study the contribution of victims and their supporters to populism in penal policy.

Keywords: victim, populism, penal policy, populist penal policy.
Introduction
Penal populism is an important issue in criminal sociology which often emerges as the public is provoked into focusing on a certain crime as well as calling for imposing the maximum penalty on the criminal. If strong emotions are aroused among people, the judiciary and security forces are compelled to take decisive legal action against criminals. By prioritizing public demands over expert opinions in both policy-making and legal enforcement, populist criminal justice tends to focus on the voice of people, especially victims, as the primary guideline in any act of planning. In such a context, the victims can, whether directly or indirectly, put forward their demands and promote populism as well as non-expert policy-making which are based on public provocations and victims' emotions.

Furthermore, social groups which support victims can also shape populist penal policies by presenting specific demands. Most often the public demands, in general, and the victims' demands, in particular, cause criminal policymakers to neglect scientific analysis of the causes of crime and develop uncalculated policies simply on the basis of the victims' temporary demands or even to exploit their victim-oriented actions as part of a political propaganda.

Supportive victimology, which aggravates penal stringency and sometimes neglects the rights of the criminal by abandoning the principle of proportionality, leads to populism in penal policymaking. With an emphasis on preferring the interests of the criminal to those of the victims and other people involved in a legal process, the victim achieves a mythic and symbolic status in populist discourse (Pratt 1393: 12).

As a cause of penal populism, supportive victimology indeed supports the victims to the extent that, in some cases, it transforms into a kind of victim deception. In this situation, honest attention to and support of the victim turn into pretensions for policymakers to develop their desired penal policies. Excessive importance attached to the victims in taking penal measures against the criminal may overshadow the opinions of expert criminologists and darken the perspective of penal policy (Taheri 1392: 124). On the other hand, victimology is also bound to be affected by penal populism. From the point of view of victimology, crime target, like biological, social, and psychological factors, is one of the causes of victimization.

On this basis, victimology aims at proposing measures to reduce victimization. However, if emphasis on crime target comes to displace other factors of crime commitment and upset the equilibrium in favor of situational factors, inattention to the criminal and promotion of penal populism become facilitated (Taheri 1392: 124).

It can be inferred from the above discussions that any study of penal populism should take into account the victim and the various forms of victimology. What is of great importance here is the effect of victims and the groups who support them on penal populism as well as the formation of victim-oriented and populist penal policies. Moreover, penal populism has consequences for the victims which are indicative of the status of victim in a populist penal policy. This is, of course, a topic far beyond the scope of the present paper. Thus, in what follows, we seek to discuss fear of victimization, the status of the victim, and victimization report.

1. Fear of Victimization
Public fear of victimization may politicize criminal issues. As a result, not only does crime commitment becomes particularly central to criminal policy, but also it is treated as an important issue is general policymaking. This can bring about penal populism and decrease
the importance of scientific investigation into the causes of crime and their solutions. If crime commitment, crime prevention, and public fear of crime are publicized and politicized, politicians try to exploit the following sense of insecurity and solutions to deal with the situation as the major component of their political and electoral campaigns. They try to gain popularity by election promises of tackling crime and insecurity. In such circumstances, crime commitment and insecurity grows into a political discourse. In addition, public concerns over increase in crime rate that are likely to result in aggravation of penalties pave the way for the practice of penal populism by executive criminal bodies and for stringent sentencing policies due to the public belief that severe sentences will reduce crime rate.

Promotion of penal populism requires certain preconditions. Populism is usually not likely to occur in traditional societies as well as those which own appropriate civil structures (Moghaddasi 1391: 34). Reduced social solidarity, increased crime rate, and emergence of new forms of criminal activities along with their coming under the spotlight can all lead to the predominance of a sense of insecurity in many nations and communities so that today's societies have been referred to as societies of danger (ibid.: 47). Public sense of insecurity and fear of victimization have implausibly increased to give rise to the repressive populist policies of politicians. If people feel insecure, whether due to real crimes or without any instance of insecurity, they will tend to participate in tackling criminal issues. As a result of their obligations with respect to people's demands and also with the aim of winning popularity, politicians react to the call for security by taking rapid measures which are almost always bound to be based on imprudent premises. In general, institutionalization of fear of crime in the society leads to the belief that the criminal justice system is inefficient, which in turn results in public calls for extensive use of severe punishments (Rayejiyan Asli: 1392: 129).

Not always do the feelings and judgments of people about crime commitment and crime rate conform to reality. This fact must be considered by those penal policymakers who base their policies on people's claims and demands. For example, the percentage of Americans who considered crime among the most serious problems of the United States remained constant for several years, even at times when crime rate was decreasing. However, this percentage increased in 1994 and 1995, reaching 31 percent in 1995, in spite of the fact that crime rate was decreasing in this very period (Roberts 1392: 52).

In this way, the premises of stringent penal policies are challenged and thrown into doubt. Accordingly, although any stringent and populist penal policy is based on the sense of insecurity as well as fear of crime and tries to justify its accountability by claiming to offer solutions, it should offer a realistic interpretation of public opinions. As an example, we may refer to several cases of acid throwing over the recent years in Iran which have aroused strong emotions and widespread fear of this type of crime especially among women who were the primary victims. As these crimes came under the media spotlight and were claimed to be serial crimes, the judiciary officers took urgent measures to respond to public demands and alleviate the tensions. At that time, the issue of immediate prosecution and imposition of severe punishments was at stake without any systematic analysis of the causes of the crimes. Thus, the judiciary sought to respond to common objections against these violent actions. This paved the way for a stringent and populist approach to the problem.

In addition to public concerns, another cause of victim-oriented penal populism is the victims' fear of further victimization, which falls under the general category of fear of crime. Therefore, it can be said that an important consequence of fear of crime in the field of criminal justice is populist punishment or, more broadly, penal populism (Nikookar 1391: 75).
Fear of victimization can lead to penal populism in different ways. It engenders, on the one hand, a sense of insecurity among both actual and potential victims and, on the other hand, results in public concerns over crime commitment. Public tensions over crime rate, exaggerated media reports, and the reactions of politicians all revolve around the prejudice that the public have lost their trust in the government's ability to control crimes, punish the perpetrators, as well as to ensure the security (Nikookar 1392: 5).

Increase in the fear of crime is a consequence of media representation of criminality. Accordingly, decreased sense of insecurity stands in a correlation with criminal news in the mass media (Moghaddasi 1391: 98). Those who seek to turn criminal issues into security-related ones attempt to develop stringent policies. Public concerns over politicized crimes and victims ultimately lead to the formation of penal populism (Bartlett 2009: 17). Moreover, experience of victimization decreases the victim's self-confidence so that they feel more vulnerable than before. It is widely believed that victimized individuals respond repressively to their sense of revenge and dismay (Mahmoodi Janaki 1390: 18). Publicized fear of victimization as such leads to penal populism in the criminal justice system. In such circumstances, the media try to represent popular and apparently more efficient solutions, such as repressive measures and severe sentences, as the best solutions to crime commitment and widespread fear of crime (Paknahad 1392: 152).

Similar to the self-serving use of public fear of crime at a national level, the international stage is also affected by exploitation of the fear of terrorist attacks and criminal actions such as invasion, crimes against humanity, and genocide. Governments pass large military budgets on the pretext that there is a growing fear of terrorism and military attacks among the nation. A good case in point is the fear-based policymaking in the United States in George W. Bush administration. The government focused on the public fear in order to justify "war on terror" and Iraq War. In other words, US officials abused the public fear of an assumed enemy and the "imminent threat" to justify the invasion of Iraq. Therefore, it is needless to say that public fear of crime is an instrument of demagogic actions that support expansionist policies (Taheri 1392: 53).

To sum up, it can be said that public concerns and fear of crime play a key role in criminal policymaking to tackle crimes and develop preventive plans and, moreover, populist policies which are often discussed within the discourse of crime prosecution are likely to be affected by the public sense of insecurity and fear of crime. In fact, a populist penal policy makes self-serving use of victims and fear of crime in order to justify the adopted measures.

2. The Status of Victim

In addition to the fact that victims are central to the criminal justice process, they are also important in taking certain measures and imposing punishments. As a result, although it is usual for penal policymakers in some cases to consider specifically certain groups of people, biased attention to specific groups, particularly those who are more vulnerable due to their age or gender, may result in differential criminal policies. For instance, minors who are naturally more vulnerable to crimes are subject to separate criminal, administrative, as well as civil regulations (Rajabipoor 1387: 17).

Age is an important factor of victimization rate. For example, the inherent weakness of children and old people makes them more vulnerable to crimes. This is the reason why they are much easier to victimize (Karmen 1999: 100). Most often crimes against children attract more public attention than those against adults; hence the higher likelihood of public
interventions in such crimes. In this situation, public expectations of the judiciary and legislative bodies compel the policymakers to take urgent and severe measures before analyzing the expectations. If the victim, especially in sex crimes, is a minor, the crime will hold more public attraction and will be highly likely to be publicized. If the crime is publicized, strong emotions are aroused in the society and people will pressure official bodies to take urgent actions. As a result, the legislature may develop penal policies in haste and the executive bodies may enforce the law in a severe manner and without any systematic consideration of the issue.

As mentioned above, victimization of juveniles is more likely to be publicized. For, on the one hand, crimes against juveniles are more frequently under the media spotlight and, on the other hand, the behavior of juveniles is usually taken as a measure of social health, which means that their involvement in criminal activities is indicative of moral disintegration in a society. Crimes become exaggerated and even distorted if they are publicized by the mass media (Farajiha 1386: 68). This, in turn, might lead to penal populism. For example, the story that was once publicized in the media about the raping and killing of a child in New Zealand compelled a legislative authority to call for passing severe criminal laws to punish sex offenders.

Vulnerability due to young or old age can also lead to fear of crime and sense of insecurity although it does not necessarily increase the probability of victimization in reality. According to the statistics, the probability of victimization is lower among old people while fear of crime is as common among them as in other groups and sometimes even more (Bachman 1992: 55). This can both result in a tendency to aggravate penalties and become a pretext for developing more stringent policies on the punishment of crimes against certain age groups. These policies are often bound to promote penal populism since they are not based on systematic and coherent plans.

Gender of the victim may also give rise to populist policies. Arguably one of the major areas of penal populism has been crimes against women. These crimes, especially sexual assaults such as rape, give rise to public intervention and media attention. In this area, penal policy usually tends toward populism under the influence of strong public emotions. Thus, instead of systematic investigations into the nature of the crime, repressive and urgent punishments are used in order to alleviate the tension temporarily.

Studies show that sex crimes are more frequently reflected in the media and this takes place usually by offering a distorted image of the crime. The mere act of publicizing these crimes can instill unfounded fears of victimization among women. In most of these reports, gender is inseparably related to violence. Most of them tend to describe the details of the crime and rarely can we find a piece of crime news about women, whether as perpetrator or as victim, that does not give any implicit or explicit background to their sexual relationships (Farajiha 1386: 67). This exaggeration on the part of media with respect to criminal actions, not least sex crimes against women, will raise fears of crime among all people and, above all, women. This reinforces the belief that media promote violence in the society and create a world of threat and brutal actions (Hosseini et al. 1388: 199).

Women defend stringent approaches to overcome their fear of victimization and sense of insecurity. Their expectations of the judiciary, which usually does not enjoy a solid basis, can lead to penal populism. Predominance of populism with respect to sex crimes can eliminate a major part of the reality as a result of merely emotional solutions. With a claim that sex offenders cannot be rehabilitated and budget allocation in this area will be useless,
politicians prefer punishments for these perpetrators. Furthermore, inattention to the reality during policymaking will render most solutions inefficient. For instance, the laws on the registration of sex offenders were passed in the United States and Britain after it was demonstrated by scientific studies that the majority of sex crimes are perpetrated by offenders who are already familiar with their victim. Undermining scientific studies has in most cases lead to inefficiently stringent laws and useless alternative approaches like full-time electronic monitoring, employment restriction, restriction on place of habitation, compulsory DNA test, and punishment in case of defiance of the above (Moghaddasi and Farajiha 1390: 118).

Exaggeration in reporting sex crimes can also be found in Iranian media. For instance, a violent sex crime was widely reported in the national press in 2009. It was described mostly based on the accounts of the victim. When the news was released, it immediately provoked strong reactions on the part of both people and authorities. The most supreme judicial officer emphasized that the Chief Justice of Tehran should prosecute the case to decide it as soon as possible. The members of the parliament also reacted to the news. Head of the parliament urged the police and the judiciary to prosecute the perpetrator and announce their names in the media to become a lesson to all criminals. These statements, however, were issued merely on the basis of media interpretations of the crime while judicial investigations revealed that the victim had willingly began a relationship and had made an appointment with the perpetrators by means of text message (Moghaddasi 1391: 156).

In general, in case of victimization of women, especially in sex crimes, legislation is affected by the vulnerability of the victims and formed on the basis of sporadic criminal actions in the society as well as the way the crime is reflected in the media. As the victim is wrongly assumed to be innocent without any strong reason, criminal justice officials usually decide to take urgent measures against the perpetrator. In these circumstances, the strong emotions of the public leave no room for expert investigation into the nature of the crime; nor are the criminal justice officials willing to conduct such investigation. If the judiciary decides to take principled and impartial measures with respect to the committed crime, it may face public objections and be accused of tolerating the perpetrator or even supporting him or her. It follows that criminal justice officials prefer urgent and temporary actions to systematic investigations so as to remain safe from criticism and maintain their popularity. Penal populism is the direct consequence of this policy.

3. Report of Victimization
The public conception of criminal justice is primarily formed via the media and their coverage of criminal news because common people possess no knowledge of judicial decisions and measures. The media tend to publish exaggerated and exciting news about violent crimes by migrants or youngsters which almost always convey biased or incorrect information to the reader and do not offer any expert commentary (Kashefi Esmaeilzadeh 1384: 260). Therefore, the public react to crimes on the basis of how they are represented in the press. In fact, it is through the figures, reports, and pictures transmitted via the media that fears of insecurity grow and demands for stringency and repressive prosecution are put forward in the field of penal policymaking. If penal populism is defined as emotional reactions to violent but sporadic crimes which have been publicized through the media (Roberts 2003: 9), self-report of victimization can give rise to media attention to a certain crime and, ultimately, contribute to the development of penal populism. Subsequently, politicians who seek to respond to public demands for security take strong but unjustified measures. In the meanwhile, the
public's opinion which has been formed by the media contributes to pragmatic penal policies (Najafi Abrand-abadi 1389: 2846).

An area most affected by populism is sex crimes. This has been due to various reasons. The growing tendency to reflect, or manipulate, these crimes in Iranian media without consideration of their roots has caused great fears of crime. As a result, criminal justice officials resort to unsystematic approaches based on penalism to win popularity (Moghaddasi 1390: 114).

In sex crimes, the dark figure of victimization and perpetration is very high due to shame and dishonor. Victims are usually not willing to self-report the victimization in order not to be disgraced. Even if the crime is revealed, they may show a reluctance to pursue litigation. Therefore, legal prosecution becomes possible if the victim reports victimization. Then media attention ensues and the victim sparks off penal populism. All through the prosecution, the quality of the victim's statements can influence penal policy. Victims often tend to exaggerate the victimization and overemphasize the harms and damages with the aim of claiming total innocence and proving the perpetrator to be guilty of the crime. This may lead the judicial officers into partiality. Passing a judgment with an emphasis on the role of the victim may create an emotional component in a process which is principally supposed to take place logically and free from emotions (Ezzat Fattah 1371: 107).

**Conclusion**

Penal populism takes place due to a number of reasons. Excessive support of the victim is perhaps the leading cause. Certain groups of victims such as women and juveniles receive more attention from the media. In fact, penal populism arises if victims and victimization are publicized. Although the victim is central to penal populism and populist policies ensures better support of the rights of the victim, overemphasis on these rights may undermine those of the perpetrator and lead to excessive punishments which are against the principle of proportionality. Another consequence of penal populism is that, although it usually supports victims, it sometimes brings about undesirable effects on them. Thus, support of victims should have a solid basis. We can respect the rights of the victim without imprudent and unjustified support which could lead into penal populism. Negative effects of populism can be prevented by avoiding emotional and unsystematic decisions in legislation and policymaking.
References

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