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TAKING CRIME VICTIMS SERIOUSLY

C Goredema¹**Introduction**

Victims of crime, like the offences themselves, exist in various categories. They all share one common characteristic: that they have suffered damage, either in their physical well being or in their financial status on account of the criminal conduct of other people.

Our system of criminal procedure provides an apparently quick method of assisting a specific type of crime victim soon after the conviction of the perpetrator of the crime. *Section 341 of the Criminal Procedure and Evidence Act, Chapter 59* provides for the making of an award of compensation in favour of the victim of a crime by a court of first instance. The relevant part reads:

"341 (1) When any person is convicted by a court with jurisdiction in civil cases or the court of a regional magistrate of an offence which has caused damage to or loss of property belonging to some other person, the court trying the case may, after recording the conviction and upon the application of the injured party or of the person conducting the prosecution acting on the instructions of such party, forthwith award him compensation for such damage or loss:

Provided that no such award shall be made by any court if the compensation claimed exceeds one thousand dollars."

Other subsections of that section set out the guidelines to assist the court in determining whether an offence has caused damage to property and the *quantum* of the award. It is also provided that an award by the trial court in terms of *section 341* can be registered with the clerk of the civil court so as to render it enforceable as a civil judgment.

In principle therefore, the High Court, all magistrates courts and community courts² can make enforceable awards in favour of victims of crime. It would appear then, that sufficient attention is paid to the victims of crime in criminal proceedings. Need they be accorded any more?

My purpose in this paper is to show that the compensatory scheme envisaged in the *Criminal Procedure and Evidence Act, Chapter 59* is inadequate and in need of revision. Even as it stands, *S. 341* excludes so many potential applicants for compensation that the few it provides for are in fact the residue rather than the main body of the general class of persons prejudiced by offences. *S. 341* caters for the exceptional cases.

Context

Perhaps a little needs to be said about the context in which the question of compensation for crime victims arises. One can safely assume that in the majority of crimes which our courts are called upon to try some person or persons will have suffered harm on account of the commission of the crime. The victims could be:

- (i) direct victims of crime, such as persons whose property has been stolen;
- (ii) dependants of those who died as a result of crime,
- (iii) persons injured while taking action to prevent the commission of a crime or to apprehend the

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² Community courts can exercise criminal jurisdiction in respect of minor offences, see section 14 of the Customary Law and primary courts Act, No. 6 of 1981. In practice, the writer has not come across any such court which does, presumably on account of a shortage of trained staff to prosecute.

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- (iv) criminal, or while attempting to take such action;
the dependants of those mortally injured as result a of taking such action or attempting to take such action.

It is well known that society, through the agency of the State, devotes a great deal of money, attention and time to the prevention and investigation of crime and, if they are apprehended, the trial and punishment of offenders. The philosophy which apparently underlies the allocation of a significant fraction of the national budget to combating and containing crime is that crime is a societal ailment which must be continuously monitored and cured from time to time by doses of, *inter alia*, State - supported punishment.

My central contention here is that our system of Criminal Procedure does not pay as much attention to the victims of crime as it does to the perpetrators of it. The argument is that we do not take the victims of crime seriously enough. The legislative attempts to do this have to this day, been only half - hearted and of limited effect. There is a need to address the plight of crime victims afresh not only for the good of society, but perhaps as a way of performing an obligation which has long begged for attention.

Existing provisions for victim compensation in Zimbabwe.

A.Sec. 341 of the Criminal Procedure and Evidence Act, Chapter 59

Section 341(1) is the main provision which allows a compensatory order, sounding in money, to be made to a victim of a crime. Its provisions have been cited above³ In order to appreciate the point being made that the provision needs review, one needs to analyse section 341 critically.

(a) Nature of the compensation order:

Unlike similar legislative provisions in Singapore⁴ and England⁵, section 341 does not indicate whether a compensation order is to be made in addition to a sentence or as a form of sentence in itself. Subsection 1 simply enables the court to make a compensatory award "after recording the conviction." It makes no mention of the relationship between the order and sentence. Guidance as to the nature of this relationship therefore has to be sought from the practice of the courts in applying the subsection.

The courts have, over the years, assumed that a compensation order as provided for in section 341 (1) is ancillary to the imposition of sentence. It appears there has been no reported case in which the point has been taken and expressly decided. Even in the useful case of *S v Tami & Others* 1983 ZLR 246 McNally J, as he then was, did not expound the conceptual relationship, perhaps because the point did not arise.

The position then appears to be that, by reading words into section 341(1), the courts have ruled that a trial court may not regard a compensation order as a form of sentence rendering it unnecessary to impose any further punishment on the offender⁶

The courts would probably hold that that view is sound given the option available to a court to suspend a portion of a prison sentence on condition that restitution is made to the victim. I have no doubt that in practice, even though a compensatory order is ancillary to sentence, it is

³ Page 1 *supra*

⁴ s. 400(1) of the Criminal Procedure Code of Singapore

⁵ s.67 (1) of the English Criminal Justice Act, 1982

⁶ It was held, in *R v Mkize*, 1961 (2) S.A. 769 that an application for statutory compensation could be made after sentence has been passed. This includes cases where the accused has been cautioned and discharged. See *R v Hope* 1952 (3) S.A. 852, *S v Chiwedza* 1983 ZLR 84. It was stated, in *A.G. v Goto* A.D. 78/81 that the compensatory order was not intended to be a form of punishment.

taken into account in the court's assessment of sentence.

(b) Who raises the issue of compensation:

The court is not empowered in terms of *section 341(1)* to consider the issue of compensation on its own initiative. The injured party must apply for an award, either personally or through the prosecutor.⁷ The prosecutor may not, acting on his own initiative, apply for compensation to be awarded to a complainant. The assumption is that the injured party is aware of his rights in terms of *section 341*. It is an assumption which is not well-founded.⁸ It would be preferable if the law allowed the court to make an award *mero motu* with the complainant's consent, or the prosecutor to recommend the award of compensation where in his/her view it serves the ends of justice. At least the assumption that a prosecutor knows of the existence of the provision for compensation has stronger foundation.

(c) Compensation is dependent on conviction:

The statutory provision demands that compensation be made by the offender and not by the State. The making of an award must be preceded by the conviction of the offender. Numerous reasons, all of them obvious, make this requirement of conviction work unfavourably against the victim. Some of them have been expressed in the following terms:

Firstly, many offenders escape conviction either by avoiding apprehension altogether or by securing an acquittal of the charge against them. Secondly, there may be conduct which is criminal in nature but is considered by the law to be non-criminal conduct. Thus, infants, the insane and persons acting under necessity, mistake or self-defence are all excused from what would otherwise have been regarded as criminal conduct. Such persons cannot be convicted and are not regarded technically as offenders. Does the premise that there is no convicted offender necessitate the conclusion that there is no crime, less still that there is no victim? Hence, it may be said that the requirement in our code for conviction as a prerequisite to compensation is irrelevant to the needs of the victims.⁹

To that list can be added a factor which is all too common in our jurisdiction, the delay involved in bringing an alleged offender to book. In some instances that delay may last two years. Those are two years during which a victim is deprived of the use of an item which he lost on account of a crime.

Again, linking a compensation award to a conviction leaves a victim at the mercy of factors over which he has no control. Conviction too often depends on the competence of the investigating officers, the prosecution and the bench. A well-investigated case can be lost through the ineptitude of the prosecution, or the incompetence of the bench. Sometimes no appeal can remedy the situation.¹⁰

(d) Recipients of Compensation:

Section 341 enables the court to order compensation in favour of victims of only a limited range of crimes, that is crimes against property. It is not competent for a court to order compensation in favour of a victim of a crime against the person or against character. The point is illustrated crisply in *S v Paraffin*.¹¹ In that case, a young woman had been convicted of

⁷ *S v de Wet* 1979 (2) S.A. 1183 (R.AD)

⁸ A survey in three major magistrates courts centres showed that over a period of six months, only 12% of complainants who could have used *section 341 (1)* relied on it.

⁹ See Meng Heong; (1984) 26 Malaya Law Rev. p. 219-237

¹⁰ For instance, where a court discharges an accused at the close of the State case in terms of *section 188 (3)* of the Criminal Procedure and Evidence Act, Chapter 59. Indeed, some magistrates have been known to play safe "by acquitting a defended accused at that stage to avoid criticism if the matter is taken on appeal. It is not clear at this stage what effect the amendment to *188 (3)* will have on such an attitude.

¹¹ HH-304-84

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assault with intent to do grievous bodily harm and malicious injury to property. She had, during the course of what the reviewing judge described as a vicious assault, bitten off part of the complainant's ear and destroyed some of the complainant's clothes. The trial magistrate had made a compensation order in the sum of \$600 in respect of the pain and suffering occasioned by the ear bite and \$350 in respect of the clothes. On review, the compensation awards were set aside. In respect of the torn ear, the judge held that the trial court had no jurisdiction to make an award for pain and suffering in terms of *section 341*. The award in respect of the clothes collapsed because the claim had not been clearly quantified. It was not clear how the sum of \$350 had been arrived at, by the claimant and the court alike. There was no doubt as to the competence of the order in that respect, however.

The Act does not provide for the compensation of the dependants of those who die as a result of crime. Secondary victims of crime are thereby excluded from recovering even funeral expenses incurred. A parent or guardian cannot rely on *section 341* to recover medical expenses incurred on behalf of an injured minor. More crime victims are excluded by the Act than are included, partly by reason of the limited ambit of *sections 341(1) and 342*.

(e) *Level of compensation:*

Section 341 was introduced into the law as *section 316 of Act 19 of 1926*. The maximum which could be awarded then was £200 by the High Court and £50 by the lower courts. The limit for the lower courts was raised to £200 in 1960¹² and subsequently the limit for all courts was set at \$1 000 by *Act 37 of 1975*.

It requires little imagination to see that the quantum of compensation allowed by *section 341* is unrealistically low. With the annual rate of inflation in double figures and the continuous upward pressure on prices, an award of up to \$1 000 rarely adequately compensates a claimant. This is even more so if it is considered that the award is supposed to include consequential loss e.g. expenses incurred in searching for a stolen motor car.

It has been contended that in:

Such summary proceedings it would be dangerous to allow major sums of money to be disposed of. There are obvious weaknesses in the procedure-complainants in theft cases, for instance, have been known to overstate the amount stolen, or the value of the goods stolen. These weaknesses may be outweighed by the advantage of speed and convenience, but as the amount involved increases, so the balance shifts away from summary awards and in favour of proper trial proceedings.¹³

Related to the issue of quantum is that of recovery of the award. *Section 341(7) and (8)* allows an award to be registered with the clerk of the civil court, and thus become enforceable as a civil judgment. Like the initial application, the registration of the award has to be initiated by the victim. The assumption that the party in whose favour an award is made knows his way thereafter, which may not be well founded, again rears its ugly head. It is doubtful that the victim gets an explanation of the means of enforcing a civil judgment and the invariable costs involved after a successful application for compensation.

(f) *Appeals against compensation orders:*

A compensation order in terms of *section 342* is appealable in the same way as any other order made in criminal proceedings. Indeed, *section 345(1)* of the Act is premised on the assumption that an order may be successfully appealed against. The provision for security *de restituendo* implies that a notice of appeal against an order will not automatically operate as a stay

¹² By *section 39 of Act 10 of 1966*. The author is indebted to McNally J, for his exposition of the history of the provision in *S v Chiwedza*, *supra*, at 86 D-F.

¹³ *S v Chiwedza*, *supra*.

of execution of the order.

(g) Compensation orders and civil liability:

This is one aspect of *section 341* which operates unfavourably against the victim of a crime. If his claim exceeds \$1 000 in respect of a single offence,¹⁴ the victim must make a difficult decision. He either abandons any excess so that the court can hear the claim or he persists in his enlarged claim and gets it thrown out for lack of jurisdiction, in which case he is left to his civil remedies. *Section 341(11)* renders it impossible for the victim to temporarily abandon part of his claim for pursuing in the civil courts. Whether or not the award corresponds with the extent of the loss, the quantum stipulated in the award extinguishes the offender's liability for his misdeeds. It is a most precarious right for the victim indeed!

The Act is silent on what should happen to property in respect of which a compensation order was made which is subsequently recovered. In insurance, the practice is for the insurer to take possession of such recovered property and dispose of it to best advantage. There is, unfortunately, no equivalent of an insurer in the situation envisaged by *section 341*.

B. Compensation in wildlife conservation cases:

There is a system of compensation which is limited to wildlife conservation cases. It provides for the award of compensation to the owner of the land on which animals are trapped or killed in an illegal hunt. The relevant legislation is the *Trapping of Animals (Control) Act [Chapter 134]* and the *Parks and Wild Life Act 14 of 1975*.

In respect of both Acts, awards of compensation must be made following a conviction. The complainant need not apply for an order, and the court has no discretion to consider the merits of the award. The odd situation which arises in some cases is that the court cannot identify the victim of the offence and it has to order the prosecutor to investigate the identity of the complainant in order to make a competent order.

Cynics will probably find the distinction in the comparative treatment of game-keepers and guardians of injured wards more than odd. This is, however, not the place to engage in a fuller debate on the merits and demerits of that legal absurdity. Suffice to state that my concern in this paper is not with the Wildlife Conservation Legislation.

Another way which the courts use to effect the payment of compensation to complainants in criminal cases is to order the suspension of a portion of a prison sentence on condition the offender pays restitution to his victim.¹⁵ The obvious limitation of this mode of compensating crime victims is that only victims of crimes against property are covered. Even then, only the first category of crime victim is catered for i.e. the direct victim, such as the person from whom property has been stolen. The second, third and fourth categories are not provided for. Compensation orders made in this way have, in the main, benefited affluent persons and organizations, such as banks and other large employers. Victims of that nature can afford to insure themselves against theft by employees. I do not propose to include them as victims in a State-supported compensation scheme.

Do we need an alternative victims' compensation scheme?

It is submitted that the need for a scheme providing for the compensation of crime victims is established, partly by the fact that most crimes result in damage and loss to the victims and partly by the inherent weaknesses of the main existing scheme provided for in *section 341* of the

¹⁴ If there are a number of offences, in respect of which the claim does not exceed \$1 000, to be made (*S v Chiwedza, Supra*)

¹⁵ (1984) 26 *Malaya Law Review*, at 222.

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Criminal Procedure and Evidence Act.

Some would argue, as Mr Justice McNally hinted in *S v Chiwedza*, that crime victims should pursue their claims for damages for sums greater than \$1 000 or for personal injury, or for loss of support, in the civil courts. An extension of the argument is that it would be asking too much of criminal courts to require them to engage in extra work at the end of what might be a long trial.

The backlog of cases in criminal courts might be lengthened if these courts are required to engage in resolving complex issues of damage quantification.

In my view, our courts should find greater use for assessors in cases involving claims by crime victims. The *Magistrates Court Act, Chapter 18* provides for the appointment of assessors to sit with magistrates in criminal trials. It is a provision which is rarely used. It is suggested that use should be made of that provision to develop a body of assessors who are fairly skilful at assessing claims arising from criminal cases. Lay jurors determine the quantum of claims in many common law jurisdictions. It is even more relevant to note that lay personnel participate in the deliberations of the *Crime Victims' Compensation* tribunals of New Zealand. At the end of a trial, a magistrate would sum up the findings of fact which relate to the issue of liability and quantum of compensation for the assessors, who then decide on the final figure, with the concurrence of the magistrate.

It is a well known fact that although civil remedies are usually available to a crime victim, these remedies are not very effective since "the victim often cannot afford the expense in terms of money and time, of bringing a (delictual) action against the offender." Even small claims end up involving lawyers because of the complexity of our civil litigation system.

Modification or replacement: the dilemma

The question which arises for discussion in the light of the above is whether the mechanism embodied in *section 341* must be retained with modifications or be completely replaced.

In my view, *section 341* needs to be replaced. While we should retain the essential concept of competence on the part of a criminal court to make an order of compensation, the other limiting features of that provision should be discarded. I proceed to outline what a proposed new compensatory scheme should look like by reference to the features of the existing one.

(a) Nature of the order:

In some jurisdictions,

"victim compensation is seen as a sanction and, particularly, as an alternative means of dealing with offenders rather than sending them to prison. The offender is provided with an opportunity to enhance his self-respect by allowing him to express his guilt and sense of atonement through the completion of specific requirement benefitting the victim of his crime. An order to pay compensation is therefore regarded as a less severe and more humane sanction for the offender."

It is submitted that such a philosophy should guide our attitude to the nature of compensation orders. It is the philosophy which has traditionally been at the core of awards of compensation at customary law,¹⁶ and it has much to commend it. In every case where the offender is able to compensate his victim, the courts should make and enforce a compensatory order. This in turn implies that the court must, *mero motu*, be able to make an award of compensation in favour of a crime victim.

¹⁶ See *Keresia and Jack v Mugweni* 1958 S.R. & N 551.

I suggest that the present, unsatisfactory *lacuna* in section 341 should be filled by borrowing from the English *Criminal Justice Act, 1982*.

Section 67 (the relevant provisions thereof) is in the following terms:

(1a.) Compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.

and subsection (4A) where the court considers-

(a) that it would be appropriate both to impose a fine and to make a compensation order, but

(b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation, the court shall give preference to compensation (though it may impose a fine as well)."

The law should lay down explicitly that a compensatory order may be made in addition to any other sentence the court may impose. The court should however, be required to accord a compensation order priority over any other sentence.

(b) *Linking compensation with conviction:*

Even though this linkage operates adversely against a claimant for compensation, it seems the most practicable in a system where compensation seeks to rehabilitate the offender and where there is no alternative source of funds to compensate the victim.

I would suggest that the main compensatory regime retain this requirement, partly to give effect to that principle of sentencing. Sooner or later, however, an application for compensation is bound to come up against an impecunious offender, or an offender who can only meet the claim in part. How is the claim, or balance of it to be paid?

The only way around this problem would be to create a separate compensatory system alongside that in the Criminal Procedure and Evidence Act. This should be done through an Act of Parliament, as is the case with war victims compensation and the proposed social security scheme. That Act would establish a fund for the purpose of meeting claims by crime victims, not only where the offender cannot pay but also where he cannot pay in full. It would also, and more radically, provide for the payment of claims where no offender is convicted or where the law absolves the offender on account of youth or mental incapacity.

A guide as to the mechanics of such a piece of legislation can be found in New Zealand's *Criminal Injuries Compensation Act, 1963*, which is more extensive than the proposed Act would be.

No longer would the fate of a claimant's entitlement to damages depend solely on the competence of the prosecution or the court.

One is aware that in a country where social welfare legislation is non-existent, partly on account of the size of the national revenue base, the suggestion that the State should fund victims of crimes which are committed by private persons is likely to be looked upon with ridicule.

Such an attitude probably reflects an egocentricity which the material conditions of Zimbabwe have done much to entrench. There is an obvious need to convince the nation that crime is a national responsibility.¹⁷ If we start sharing that responsibility by indemnifying

¹⁷ It is argued that society should take full responsibility whenever a crime is committed. The argument may be summed up, this:

(i) the fact that a crime is committed proves that the State has failed in its elementary duty to protect the population and the physical integrity of its members. Consequently, the

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victims of crime, albeit partially, we may have taken a significant steps in reducing crime.

(c) *Recipients of compensation:*

It is my view that all classes of victims of criminal conduct should have *locus standi* to apply for compensation. The various categories of victims have been listed above.¹⁸ The present limitations, in *section 341*, to direct victims is unsatisfactory.

Victims should be entitled to claim compensation even for pain and suffering. In brief the heads of claim which are allowed at present in civil courts should extend to criminal cases. There is no rational basis for making the existing distinction.

The conduct of a victim must be taken into account in determining, firstly, the liability of the offender and secondly, the quantum of the award.

d. *Level of Compensation:*

As has already been indicated above, the current level of compensation allowable by *section 341* is too low to be meaningful. It obviously needs to be increased so as to render awards really compensatory. The question is whether the new scheme should retain an upper limit or allow trial courts to make awards which are not restricted. In deciding that issue, one must take account of the fact that the compensatory scheme is being proposed to complement the remedies available in civil law. There is no need to link the quantum of compensation which may be awarded by a particular court to its civil jurisdiction. It appears that even now, the upper limit of awards does not correspond to the limits of civil jurisdiction. The High Court, which enjoys unlimited civil jurisdiction, may not make an award in excess of \$1 000.

If the award is to be linked to the court's civil jurisdiction, a magistrate's court would be able to award up to \$5 000 in compensation, which may be inadequate in some circumstances.

In view of the fact that a crime victim must elect either to seek compensation in the criminal courts or one for damages in a civil court, I would submit that there should not be an upper limit to the size of an award which a criminal court can make.

Financing the scheme:

I must admit from the onset that my knowledge of accounting is elementary, and I am certainly not qualified to make an evaluation of the mode of financing the State funded scheme. My suggestions in that regards, can only be of a general nature. I submit though, that they are worth detailed exploration.

Firstly, the State would need to isolate funds generated by the payment of fines in criminal cases. From these funds a certain percentage, say 25% would be channelled into a *Crime Victims Compensation Fund*.

-
- State must bear the coat of victimisation.
- (ii) Crime arises in society as a consequence of the conditions pertaining in that society. Rapid urbanization, poverty, slums, overcrowded housing and poor living conditions, wide gaps between population groups accompanied by antagonism between the various classes all combine to give birth to, and nourish crime.
 - (iii) Society is to blame, since "it imposes on its members, on the one hand, conditions which drive them into crime, and on the other hand, it exposes its members to a life holding danger for all, including the possibility of criminal victimisation."
 - (iv) By imposing a prison sentence or a fine on a convicted offender, the State makes it difficult for the injured person to receive compensation from the offender. The State must therefor bear responsibility for the side-effects of its punitive sanction.

Secondly, offenders incarcerated should be engaged on income generating work, such as panel-beating and repair of motor-vehicles, agricultural production, manufacturing etc. A part of their earnings should be transferred to the Fund, partly in order to reimburse the Fund for its compensation of the victim. This does not mean sentences should bear a direct relationship to the quantum of compensation paid to a victim. An offender should be required to continue contributions to the Fund even after his release from custody where his period in prison was short. Making prisoners pay necessary entails making our prisons more profit - oriented.

Thirdly, the state should in cases where an offender is identified and it has compensated the victim, be subrogated to the rights of the victim against the offender. The state should then be able to proceed by way of a civil action against the offender, to reimburse itself and to prevent the offender from getting away with it.

Another way of raising funds for the scheme would be for the state to raise the stamp duty paid by insurance companies in respect of the policies they issue. Ultimately, of course, it is the policy holder who will pay the increased levy.

Conclusion:

The subject of crime victims' compensation is obviously more involved than one can adequately show in a paper of this length. It is hoped, however, that the issues raised might stimulate, or add to, debate on this very important topic.

For a start, I would recommend that our Legislature reconsiders carefully *section 341* of the *Criminal Procedure and Evidence Act, Chapter 59*, which accords greater protection to interests in property than interests in personal security. The compensatory regime which it provides for is a most unsatisfactory one, crying out for an overhaul.

A few months after the writing of this article but before its publication, a draft *Criminal Procedure and Evidence Bill* was circulated. *Clause 18* of the Bill seeks to extend the courts' powers to award compensation. The clause seeks to repeal *Part XIX* of the *Criminal Procedures and Evidence Act* and substitute it with new provisions.

Section 342 of the amended Act will enable courts to award compensation to any person "whose right or interest in property of any description has been lost or diminished" on account of an offence.

Section 343 will create, for the first time in the history of the Act, a right to claim compensation for personal injury caused by an offence. The amount of compensation due to the victim must be "readily quantifiable". Ease of quantification as a factor was probably included in order to allay the fears of legal practitioners who may have felt that inferior courts were not staffed by adequately trained and experienced judicial officers. The fact remains, however, that the question of whether the amount is readily quantifiable or not is left to the discretion of the court.

The new provisions remove the \$1 000 limit for compensation awards. A court with power to make an award can make it in any amount. In my view, this departure from the limitations of *s.341* is a welcome development, in the light of the criticism expressed above.

A further and progressive change to the existing compensation scheme is set out in the new *s.345D*. While the new provision retains the requirement that compensation can only be granted upon application, it provides, in *s.s (2)* that "whenever a court has convicted a person of an offence, the court shall ensure, where appropriate and practicable, that any injured party is acquainted with his right to apply for an award or order in terms of this part". (The italics are mine).

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The proposed amendment represents a shift from the previous practice which assumed that crime victims were aware of their right to apply for compensation. It recognizes the established fact that a significant number of potential claimants simply do not know that a criminal court can grant a civil remedy.

Section 345 J reproduces *S. 341 (11)* but it is noteworthy that the objections made above to *S. 341(11)* are weakened by the fact that *S.345 J* is intended to operate in a system in which there is no limit to the size of the award which can be made. There is therefore, no question of a crime victim being required to abandon part of a legitimate claim so as to sustain the claim.

The provisions of *clause 18* of the draft Bill are progressive and if enacted, will bring about a more comprehensive and just system of crime victims' compensation. While they do not address all the shortcomings highlighted in this article, the provisions are an important first step.



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