

Compensation for Victims in Public Legislation and as a Civil Right

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In a Swedish evening paper during the summer of 2006, there was a story about a woman who had been badly beaten by her husband which resulted in her having, among other things, an ugly facial scar.¹ After the beating, the woman and her children left the man and ended up in protective housing. The authorities made a formal decision to restrict access to her personal data in the National Population Register. In other words – the family were in hiding from the batterer. The woman was an immigrant who did not speak Swedish, had no money and no job and had to borrow in order to be able to pay the rent. She was forced to turn to the social services to provide for her children. The court sentenced the husband to jail and ordered him to pay damages to the wife. The woman was pleased, because she thought this would enable her to repay the loan for the rent and to have plastic surgery to remove the ugly scar. But the man had no money, so she applied for compensation from the state. Finally, after eight months, she received a response from the Crime Victim Compensation and Support Authority, but it was only the authority inquiring if she had an insurance policy that could pay for the injury. She did not have any such insurance and after some further months she received a decision from the authority that she was entitled to compensation from the state, but only half the amount that had been awarded by the court. At the same time, she received a message from the social services. The payment from the state was regarded in legal terms as her income and accordingly was deducted from the amount of support she received from the social services to provide for herself and her children. The writer of the article stated that poor people, living on social security, have no right to compensation in the Swedish welfare system!

This article focuses on compensation for victims in the Swedish welfare state. Initially there is a short overview of the various compensation systems and a survey of the specifics of the Swedish welfare state. Thereafter, the legal chain of compensation schemes will be discussed, followed by a discussion of the complicated interaction between different compensation schemes in civil and public law and contradictions to the rest of the welfare state. Finally, I will discuss how various legal disciplines have influenced the development of compensation to victims; with two different examples showing the great significance public legislation has had on the civil rights of crime victims.

1 Compensation Resulting from Crime

Anyone who is subjected to a criminal act has in general a right to compensation. From an international and general perspective, there are a number of ways in which a victim can obtain financial reimbursement. He or she may be compensated through court-order restitutions, a lawsuit for damages, through private insurances or government compensation plans. A victim can also prohibit criminals from cashing in on their bad name.²

1 Aftonbladet, 2006-07-13, Moberg, Åsa, *Skadestånd försvinner i byråkratin* [“Damages Disappear in Bureaucracy” (my translation)].

2 Karmen, A., *Crime Victims. An Introduction to Victimology*. Thomson and Wadsworth 2004, Smith, B. Hillenbrand, S., *Making Victims Whole Again. Restitution, Victim-Offender*

1.1 *Several Systems of Compensation for Victims*

In Sweden, a victim has three main options for compensation. Firstly, the victim can be awarded damages against the perpetrator according to tort law, determined by the court. Secondly, compensation can be paid through various kinds of insurances, mostly private insurances, taken out by the victim with an insurance company. Finally, the Swedish state can compensate the victim through the government compensation plan, known as Criminal Injuries Compensation, through the Crime Victim Compensation and Support Authority.³

One fundamental principle behind compensation for crime victims in Sweden is that it should redress and compensate the victim for her or his suffering resulting from a crime. Nevertheless, in an international comparison the Swedish system of compensation for victims may appear limited.⁴ One explanation for this is the Swedish welfare system. It is important to point out that the Swedish system for compensation to victims' functions within the context of a welfare state, as the state provides extensive social protection to all citizens. Victims of crime are included in this broad social protection system; a system that, for example, covers loss of income irrespective of reason.⁵ Thus, in addition to the three schemes designed to reimburse victims, the public social protection system can also compensate those who are exposed to crimes.

1.2 *Compensation in the Context of the Swedish Welfare State*

In Sweden, the history of the welfare state, as is the case for most welfare states, is a story of transition from relief based on charity and discretion to benefits based on legislation and entitlement.⁶ The motives behind the welfare policy of the Swedish welfare state are mainly redistributive, which has resulted in a specific Swedish model of welfare. There is a strong belief in state-regulated social welfare, hence Sweden has a large public sector, and the welfare is financed by mandatory taxes and contributions.⁷

Reconciliations Programs, and Compensation. In Davis, Lurigio, and Skogan (eds), *Victims of Crimes.* Sage Publication 1997 and Doerner, W. and Lab, S., *Victimology.* LexisNexis Anderson Publishing 2005.

- 3 See Mannelqvist, R., *Ekonomisk ersättning till brottsoffer ur ett rättskedjerspektiv.* In Granström, G., Mannelqvist, R., and Weinehall, K., *Brottsoffer – ansvar och konsekvenser.* Ett viktinologiskt forskningsseminarium i Umeå den 22 november 2005. Umeå Studies in Law No 12/2006 and Mannelqvist, R., *Ersättningar till brottsoffer – samverkan eller kollission?* In SvJT 2006, pp. 379-396.
- 4 Freckelton, I., *Compensation for Victims of Crime.* In Kaptein, H. and Malsch, M. (eds), *Crime, Victims and Justice. Essays on Principle and Practice.* Ashgate Publishing Limited 2004, pp. 31-62.
- 5 Even if the public social protection system covers loss of income, the victim can in some cases be compensated for income loss from the offender or private insurances, but only if public insurance does not meet the actual loss.
- 6 Esping-Andersen, G., *The Three Worlds of Welfare Capitalism.* Polity Press 1990 and Spicker, P., *The Welfare State. A General Theory.* Sage Publications 2000.
- 7 The specifics of the Swedish welfare state have been discussed for instance by, Edebalk, P-G., *Välfärdsstaten träder fram. Svensk socialförsäkring 1884-1955.* Arkiv Förlag 1996,

Central to the welfare legislation is the social security law, in which social insurance is very significant. Sweden has a long history of social security. From the beginning of the twentieth century, social insurance was the central mechanism for the delivery of modern welfare, and social insurance still forms an important part of welfare as its purpose is to uphold the financial and social welfare of various groups of people.⁸ The public social insurance system is seen as the core of the Swedish welfare state, including the majority of the population and providing both a high level of compensation for lost income and residence-based benefits.⁹

However, one important principle in Swedish welfare legislation is that benefits are payable only if the beneficiary is unable to support herself or himself. Benefits are largely based on the 'employment strategy', implying that they are connected to income earned from paid work. The employment strategy means that employment is always prioritized over any measures or payments of cash benefits and the main purpose of the strategy is to encourage people to work. This strong tie between work and social rights signifies that the Swedish welfare state can be regarded as a workfare state.¹⁰

Swedish social insurance law is constructed mainly in the form of collective rights, through individual rights intended for a specific group of people, for instance parents or senior citizens. A large part of the benefits in the social insurance scheme is designed to cover income losses and the law is often based on the principle of compensation for loss of income. This principle was introduced into social insurance legislation in the 1950s, in order to preserve the economic value that paid work provided and to counteract exclusion from society.¹¹

Korpi, W. and Palme J., *The Paradox of Redistribution and Strategies of Equality: Welfare State Institutions, Inequality and Poverty in the Western Countries*. In *American Sociological Review* 63, 1997, Palme, J., *Välfärdsstaten som en strategi för jämlikhet*. In Palme, J. and Wennemo, I. (eds), *Generell välfärd: Hot eller möjlighet?* Norstedts Stockholm 1996 and Sainsbury, D. and Nordgren, M., *I nedskärningarnas tecken. Välfärdsstaten och jämställdheten*. In SOU 1997:115.

8 Mannelqvist, R., *Samband I socialförsäkringen. En rättsvetenskaplig studie av sambandet mellan förmåner och avgifter i socialförsäkringen*. Iustus Uppsala 2003 and Vahlne Westerhäll, L., *Den starka statens fall? En rättsvetenskaplig studie av svensk social trygghet 1950-2000*. Norstedts Juridik Stockholm 2002. See also Hobson, B., Lewis, J. and Siim, B. (eds), *Contested Concepts in Gender and Social Politics*. Edward Elgar Publishing UK 2002.

9 See Mannelqvist, R., *Social Insurance Law – The Core of Swedish Welfare Law*. In Davis, M., Gunnarsson, Å. and Svensson, E-M. (eds), *Exploiting the Limits of Law. Swedish Feminism and the Challenge to Pessimism*. Ashgate Publishing 2007, pp. 141-152.

10 Christensen, A. and Malmstedt, M., *Lex Loci Laboris versus Lex Loci Domicilii – an Inquiry into the Normative Foundations of European Social Security Law*. In *European Journal of Social Security*, Volume 2/1 2000 and Gunnarsson, Å., Burman, M. and Wennberg, L., *Economic Dependency and Self-support in Family, Tax and Social Law*. In Svensson, E-M., Pyllkänen, A. and Niemi-Kiesiläinen, J. (eds), *Nordic Equality at a Crossroads, Feminist Legal Studies Coping with Difference*. Ashgate Publishing 2004.

11 See Mannelqvist, R., *Social Insurance Law – The Core of Swedish Welfare Law*. In Davis, M., Gunnarsson, Å. and Svensson, E-M. (eds), *Exploiting the Limits of Law. Swedish Feminism and the Challenge to Pessimism*. Ashgate Publishing 2007.

Nevertheless, although the state offers its citizens an all-embracing welfare, a victim has a right to be specifically compensated for injuries due to crime. Money cannot erase painful memories or emotional and physical wounds in a victim of crime. But even though such injuries cannot be measured in money, financial compensation can be seen as a first step toward restitution for victims and can ease their suffering.¹²

2 The Legal Chain of Compensation for Crime Victims

The systems for compensation in Sweden – damages, insurance, Criminal Injuries Compensation and public insurance – function within different legal disciplines and are based on different legal structures and norms. From the victim's point of view, the variety of systems of compensation can be described as a chain of rules, which set up both rights and frames or limitations concerning the victim's right to compensation.

2.1 *Claim for Damages*

Initially, the victim is supposed to sue for damages from the perpetrator according to tort law.¹³ A claim for damages is a lawsuit in accordance with civil law, but the victim can also bring this civil claim for compensation from the offender during a criminal trial. Usually, the prosecutor will prepare and present the claim for damages jointly with the prosecution in the criminal trial and the victim's claim will be assessed by the court in conjunction with considerations about the offender's guilt or innocence.¹⁴ However, it is important to emphasize that a claim for damages is not regarded as a punishment for the offender, only as compensation for the victim.¹⁵

Under tort law, the victim can sue a defendant for compensatory damages.¹⁶ The victim can receive compensation for personal injuries, including both physical and psychological injuries. The compensation covers loss of income, feelings of unease and pain, as well as expenses for any psychotherapy needed to recover from trauma. In addition, violation of personal integrity suffered by the victim will be reimbursed. The concept of violation of personal integrity requires that the crime involved a serious violation of someone's person, freedom, peace

12 Karmen, A., *Crime Victims. An Introduction to Victimology*. Thomson and Wadsworth 2004 and Freckelton, I., *Compensation for Victims of Crime*. In Kaptein, H. and Malsch, M. (eds), *Crime, Victims and Justice. Essays on Principle and Practice*. Ashgate Publishing Limited 2004.

13 Tort Law (1972:207).

14 Code of Judicial Procedure, Chapter 22.

15 Mannelqvist, R., *Ekonomisk ersättning till brottsoffer ur ett rättskedjerspektiv*. In Granström, G., Mannelqvist, R., and Weinehall, K., *Brottsoffer – ansvar och konsekvenser. Ett viktologiskt forskningsseminarium i Umeå den 22 november 2005*. Umeå Studies in Law No 12/2006.

16 As stated, the award of damages according to Swedish tort law is not seen as a punishment of wrongdoers and consequently, punitive damages are not awarded.

or honor (respect). The compensation will also cover loss of or damage to property and purely financial losses.¹⁷

Victims who have been subjected to any kind of injury due to crime are entitled to compensation.¹⁸ All damages will be compensated for by the offender, if the injury occurred by intent or through negligence on the part of the offender. The possibility for a crime victim to claim damages in Sweden is, therefore, somewhat limited, since the person liable to pay damages must be responsible for the harm done. A lawsuit for damages against a third party is thus impossible. If the victim has in any way contributed to the injuries, the damages will be adjusted accordingly.¹⁹

2.2 *Private Insurance*

Most people in Sweden have private insurance, principally home insurance, which covers losses or injuries resulting from crimes. There are also additional collective or individual accident insurances covering personal injury.

Private insurance is based on an individual contract, which implies that people are covered by the insurance if they are able to be a part of the insurance scheme and pay the fee. The conditions for compensation to victims are fixed in the insurance policy and vary very little among insurance companies. Furthermore, compared to claims for damages according to tort law, the compensation is limited. Some losses are not compensated for and all victims are not included in the scheme. For instance, if the victim is living with the offender, the insurance is not valid.²⁰

In private insurances, the victim's own behaviour has an effect on their eligibility for compensation. If the victim was under the influence of alcohol, he or she has no right to compensation. This is also true if the victim has, through self-indulgence, participated in an action that led to injuries resulting from crime.

2.3 *Government Compensation Plan – Criminal Injuries Compensation*

If the perpetrator is unknown or unable to pay the damages, or if the victim is not included in a private insurance scheme, the victim may be entitled to compensation from the government. This compensation is called Criminal Injuries Compensation.²¹

Criminal Injuries Compensation is based on principles of public law and the compensation is secondary to damages and insurances. Thus, this compensation is payable to the victim only if he or she has not been compensated from any other system. Although it is not considered to be damages, the judgment

17 Tort Law, Chapters 2 and 5.

18 According to Swedish tort law, all damages can be compensated for irrespective of whether or not crime was the cause.

19 Tort Law, Chapters 2 and 6.

20 Mannelqvist, R., *Ersättningar till brottsoffer – samverkan eller kollision?* In SvJT 2006, pp. 379-396.

21 Criminal Injuries Compensation Act (1978:413).

concerning state compensation is made accordingly. As a result, the compensation is meant to restore the victims to their former financial condition.²²

The right to compensation occurs if the injury received is a result of a punishable offence. In general, the criminal act must have been intended by the perpetrator, but a victim can be compensated even for injuries sustained as a result of unpremeditated crimes.²³

The victim can be compensated for personal injuries and violation of personal integrity. The Criminal Injuries Compensation is often fixed at a larger amount than reimbursement for damages. The state has accepted a great responsibility towards victims of crime concerning these kinds of injuries. On the other hand, the possibilities of being granted compensation for damages to property or for pure financial losses are slim, since these kinds of injuries should not be covered by tax-payers' money.

As in the case of damages, Criminal Injuries Compensation will not be paid to the victim if he or she has contributed to the injuries, and it will also be denied if the victim's manner of living is considered unsuitable.²⁴ This implies that if a victim's behavior has in any way led to an increased risk of being subjected to crime, the victim will not receive compensation from the state. According to the legislator, state compensation not only has a social function, but must also take in to account criminal policy. If a victim has participated in some way in a criminal or otherwise blameworthy activity, he or she will not be compensated.²⁵ Subsequently, people with drug problems have considerable difficulty obtaining compensation from the state for injuries due to crime.²⁶

2.4 Public Insurance

As stated, a victim has a right to be compensated for personal injuries from all the systems mentioned above. When a victim receives compensation for personal injuries, loss of income is also covered.²⁷ Loss of income occurs when the victim is not able to work, mostly as a result of illness. In Sweden, loss of income caused by illness or injury is usually covered by public health insurance, through sickness benefit.

As mentioned earlier, the general public insurance, in principle, applies to everyone – to victims of crime as well as to others – who have lost the ability to work due to sickness. Public health insurance is part of public law and sickness benefit is based on the principle of compensation for loss of income, which

22 Government Bill 1977/78:126 (Ersättning för brottsskador).

23 Governmanet Bill 1977/78:126.

24 Criminal Injuries Compensation Act, 9 § 2 section.

25 Government Bills 1977/78:126 and 1998/99:41 (Ändringar i brottsskadelagen).

26 This can be observed in some of the cases decided by the Criminal Victim Compensation and Support Authority in Sweden, *see* the case report from 2006, Brottsoffermyndighetens referatsamling 2006 (Review from the Crime Victim Compensation and Support Authority).

27 *See* Tort Law, 1 § in Chapter 5.

implies that the benefit is connected to earned income from paid work.²⁸ If the victim has lost the ability to work due to sickness, his or her lost income will be compensated for, but if the victim is unemployed or is still able to work, there will be no compensation from sickness insurance.

Sickness insurance is applicable, irrespective of the cause of the illness or injury, as long as the person insured has an income from paid work.²⁹

At the same time, public insurance will only compensate the victim for the loss of income and not for any other injuries or damages. As a result, violation of personal integrity will not be covered by the public scheme.

3 The Legal Chain from a Victim's Perspective

A victim can be forced to seek compensation from various schemes and the systems for economic compensation have previously been described as a legal chain of rights. A victim has a right to damages, but if the perpetrator has no money or is unknown, the victim must seek compensation from his or her insurance company. Only if this is not possible will the state pay Criminal Injuries Compensation to the victim. But, since the public insurance system covers some of the losses regardless of any other compensation, the sickness insurance slides along the whole legal chain of compensations. Most parts of the chain of compensation are similar but there are also some differences within the legal framework among the systems of compensation.

3.1 *Contradictions within the Chain*

Behind each compensation scheme, there are a number of purposes and principles. One essential principle behind damages is to restore victims to their formal financial condition. In addition, the damages are to compensate and redress the victim.³⁰ Private insurances, based on individual contracts, rely on people's willingness to be a part of the insurance scheme and their ability to pay the fee. In many cases, the level of compensation for assaulted victims is already predetermined in the insurance policy, regardless of the injuries of the individual victim.³¹

The diversity of principles and purposes may be one explanation for the number of gaps and contradictions in the legal chain of compensation; contradictions that are unfortunate from a victim's perspective. For instance, a

28 See among others; Björklund, A., Edebalk, P-G., Ohlsson, R. and Söderström, *Välfärds-politik i kristid – håller arbetslinjen?* Välfärdspolitiska rådet rapport, SNS förlag 1998 and Mannelqvist, R., *Samband I socialförsäkringen. En rättsvetenskaplig studie av sambandet mellan förmåner och avgifter i socialförsäkringen.* Iustus Uppsala 2003.

29 If the insured person is entitled to sick pay from an employer, he or she will be compensated by the employer for the first 14 days of the sickness. See Chapter 3, National Social Insurance Act (1962:381).

30 Government Bill 1972:5 (med förslag till skadeståndslag mm).

31 Mannelqvist, R., *Ersättningar till brottsoffer – samverkan eller kollision?* In SvJT 2006, pp. 379-396.

victim who has a right to damages can be denied compensation from insurance companies and then be granted compensation from the state. This applies for anyone who residence with the perpetrator, for instance women that are abused by their husbands or children that are assaulted and battered by their parents. Another example is that a victim who has a right to compensation from the perpetrator can be denied insurance or state compensation. Police officers or other civil servants who deal with abusers and criminals during the exercise of their duties are supposed to be used to some violence. Therefore, their right to compensation for violation of personal integrity is limited in insurances and Criminal Injuries Compensation.³²

There are also, however, victims who do not have the right to damages but who will, nevertheless, be considered as victims by the state. A child who has been forced to witness violence between his or her parents has not, in general, been subjected to a crime but is still regarded as a victim, according to the Criminal Injuries Compensation Act. Therefore, the child has no right to damages from the parents, but is eligible for financial compensation from the state, even though the injury that the child received was not caused by a criminal act.³³

3.2 *Contradictions vis-à-vis the Welfare State*

Not only are there interactions among the different schemes of compensation, but also in relation to the welfare system. The purpose of compensation for victims is restitution and redress. In general, all compensation schemes are based on the essential principle of restoring victims to their former financial condition. Compensation to victims, and above all Criminal Injuries Compensation, can also be seen as a part of the welfare system. Criminal Injuries Compensation is part of Swedish welfare legislation and the compensation is limited concerning both the amounts paid and eligibility. Therefore, some argue that receiving compensation from the state might be considered a privilege, rather than a right.³⁴

Criminal Injuries Compensation is based on principles of humanity and welfare, not on a duty to compensate crime victims for the state's failure to prevent crimes. It can be seen as a combination of a welfare system, along the lines of social insurance paid for from taxpayers' money, and a moral duty to compensate deserving and innocent victims. This compensation is also regarded as a means of providing social justice for those who have been victimized. There is a strong sense of solidarity in the state compensation scheme that is visible in the legal framework of Criminal Injuries Compensation.³⁵ This is also obvious when the September 11th Victims Compensation Fund in the United States is

32 Mannelqvist, R., *Brottsoffers möjlighet till upprättelse och kompensation vid kräkning*. In JT 2005-06, s. 790-808.

33 Government Bill 2005/06:166 (Barn som bevittnar våld).

34 See the debate over compensation in the United States, in Karmen, A., *Crime Victims. An Introduction to Victimology*. Thomson and Wadsworth 2004.

35 See Government Bills 1977/78:126 and 1998/99:41.

compared with the Swedish state compensation.³⁶ This American fund was temporary, created by an Act of Congress, and designed to provide an alternative to legal action for the victims of the September 11, 2001 attacks and their families.³⁷ Swedish Criminal Injuries Compensation, like the American Victims Compensation Fund, is financed by tax money and compensation can be paid to a victim without the conviction of any perpetrator. However, in contrast to the Swedish compensation system, the American Victims Compensation Fund has been widely criticized. Critics in the United States considered that taxpayers should not be made responsible for the lack of care shown by the airlines and other liable parties. Several critics also consider that the Fund places a higher value on some lives than others, as the level of compensation is based on the victim's income. Furthermore, victims of other terrorist attacks have not been given the opportunity to benefit from such a Fund, which may be seen as unfair. In Sweden, the general public is in favour of financial compensation for victims and the state compensation for crime victims is supported by the public. When Criminal Injuries Compensation is criticized, it is often because a victim has been denied compensation.³⁸ This could be one outcome of the strong emphasis on solidarity that is so distinctive in the Swedish welfare state.

On the other hand, the Swedish welfare system is based on the employment strategy and all benefits, including social allowances, are based on peoples' ability to support themselves. Consequently, compensation for victims is included in people's private means and property and if a victim already has a limited capacity to support him- or herself, the reimbursement is regarded in the same way as any other source of income. Thus, compensation for poor victims will not serve as restitution.³⁹

4 Legal Influences on Compensation

The legal systems concerning compensation have been described above as a legal chain. As stated, the right to compensation is both independent and, at the same time, dependent within this chain. For instance the right to compensation through damages has effects on the right to other kinds of compensation in the

36 It is hard to compare with other American crime victim compensation funds, since these are established in all states and each state operates its program under its own state laws. Most of the financing for these programs comes from offenders' fees and fines, rather than from taxpayers' money.

37 The Victims Compensation Fund in the United States was established in September 2001. Monday December 22, 2003 was the last date of application for victims who wished to take advantage of the fund. Over 95 percent of those who were eligible for the fund applied for compensation. See Ramirez, J., *The Victims Compensation Found: A Model for Future Mass Casualty Situations*. In the *Transportation Law Journal* 2001-2002, Vol 29:283, pp. 283-298 and Plaster, J.E., *Cold Comfort and a Paper Tiger: the (Un)Availability of Tort Compensation for Victims of International Terrorism*. In *Wash. U.L.Q* 2004, pp. 522-555.

38 Mannelqvist, R., *Brottsoffers möjlighet till upprättelse och kompensation vid kräkning*. In *JT* 2005-06, s. 790-808.

39 Government Bill 2000/01:80 (Ny socialtjänstlag).

chain. It has been pointed out that the chain of compensation consists of both public and civil law, where the various laws have partly different and partly similar purposes. That is why the legal chain can sometimes be contradictory from a victim's perspective. Differences between the systems of compensation can be confusing for a victim and can also contribute to secondary victimisation. Instead of providing restitution for the victim, the legal differences between the compensation systems result in the victim feeling that he or she is being subjected to a further injustice.⁴⁰ The bottom line in all this interaction is that poor people are not seen as deserving and innocent victims to the same extent as are wealthy people. In addition, if the victim has drug or alcohol problems the possibilities of receiving compensation are slim. Obviously there is a collision between welfare policy and the principles for compensation to victims. This interaction within and among compensation systems and welfare raises the question of whether all victims of crime are receiving redress and compensation in the Swedish welfare state.

From another point of view, the interdependence between various schemes and legal constructions can contribute to other effects concerning compensation to victims. In general, the right to compensation in public law has had an obvious influence on the civil right to restitution. I will illustrate this by using two examples concerning the levels of compensation.

4.1 Reduction of the Liability for Paying Compensation

As mentioned, public insurance will cover loss of income due to sickness, regardless of what or who caused the illness.⁴¹ Thus, if a victim has fallen ill due, for instance, to assault or battering, the sickness insurance will, in general, cover loss of income.⁴² Sickness benefit covers 80 percent of the annual income on which the benefit entitlement is based.⁴³ For this reason, other systems of compensation to victims rarely embrace medical costs or extensive compensation for lost income. The perpetrator, who in general is responsible for all costs occurred due to crime, will only be liable for income loss that is not covered by the public insurance. Furthermore, the offender is not obliged to repay any money to the public insurance.

On the whole, the victim will be fully compensated for loss of income but the perpetrator will only pay a small proportion of this kind of compensation.

40 Forsman, M., *Barnen i brottets skugga – brottsoffer på undantag?*, and Mannelqvist, R., *Ekonomisk ersättning till brottsoffer ur ett rättskedjerspektiv*. In Granström, G., Mannelqvist, R., and Weinehall, K., *Brottsoffer – ansvar och konsekvenser*. Ett viktinologiskt forskningsseminarium i Umeå den 22 november 2005. Umeå Studies in Law No 12/2006. See also Goodey, J., *Victims and Victimology. Research, Policy and Practice*. Pearson Education Limited 2005.

41 The Swedish government has appointed a public committee to investigate the possibility of financing sickness due to traffic accidents by third party insurance. If so, this will constitute the first step towards a drastic change in the Swedish social insurance system.

42 In most cases, the employed victim will first receive sick pay from the employer for 14 days.

43 The annual income, on which sickness benefit entitlement is based, is limited. No one will receive compensation above 7.5 price-base amount, with corresponds to slightly more than 300 000 Swedish kronor.

The public legislation and welfare system has, in this case, reduced the liability of the offender to pay compensation.

4.2 *Raised Compensation Levels*

Damages decided in court, are based on the victims claim and the offender's plea. Therefore, in many cases, the parties in court set the levels of compensation. When a victim cannot receive restitution from the offender, or private insurances, he or she can seek Criminal Injuries Compensation. It is the Crime Victim Compensation and Support Authority that deals with these applications and determines the amount of compensation, based on an established standard level of compensation. Decisions made by the authority are final.⁴⁴ This practice means that a victim can be awarded different amounts from the court and the Crime Victim Compensation and Support Authority, despite the fact that it is the same victim subjected to one crime.

There is, however, an interaction between the judgment of the court and the decision made by the Crime Victim Compensation and Support Authority concerning the levels of compensation. As in many other countries, case law from the Supreme Court is of vital importance for the administration of justice, but in Sweden the Crime Victim Compensation and Support Authority has a crucial significance for the legal development of compensation to crime victims. The move towards higher compensation from Criminal Injuries Compensation has resulted in higher damages being awarded in court. At the same time, judgments from the court of appeal and the Supreme Court govern established practice at the Authority. In most cases the Authority adheres to its high levels of compensation, even if a court of appeal has set a lower level, but the Authority rarely deviates from a judgment made by the Supreme Court.⁴⁵

All in all, the levels of Criminal Injuries Compensation, set by the Authority have made a great impact on judicial custom, concerning damages awarded according to civil law.

4.3 *Will the Influence Continue?*

The development of the right to compensation for victims, based on both public and civil law, shows that public law has had an evident influence on civil law, mostly concerning increases in compensation levels. In that context, the civil right to compensation has become more social. The legal concept of compensation in civil law has also affected public law. The basis for forming a judgment when a victim applies for Criminal Injuries Compensation is in many ways the same as in tort law. However, there are other divergences between the legal disciplines and there is a question of if and how any other cross-effects will occur. For instance, will the wider definition of victims in Criminal Injuries Compensation affect damages and insurance policies or will principles of restitution apply even to victims living on social allowances?

44 Criminal Injuries Compensation Act, 12 §.

45 See the review from Crime Victim Compensation and Support Authority, (Brottsoffermyndighetens referatsamling) 2006 and Mannelqvist, R., *Brottsoffers möjlighet till upprättelse och kompensation vid kräkning*. In JT 2005-06, p. 790-808.