



A study about Victims and Victimology in India

¹Sarita Rani, Research Scholar, Dept. of Law Professor
Kurukshetra University, Kurukshetra (Hr.)

²Dr.Varsha Razdaan, Dept. of Law Professor, Kurukshetra
University, Kurukshetra (Hr.)

Abstract

The Criminal Justice system in India is derived from the British model where control and prevention of crimes, punishment and rehabilitation of offenders and protection of individuals and their property are some of the accepted principles. Many countries of the world have realized the need to extend assistance and services to the victims of crime thereby changing their way of dealing with them. Nevertheless, the position of victims has not yet changed in India where they are treated as mere witnesses for prosecuting and punishing the offenders. As such they are deprived of their rights



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Introduction

When a crime happens there may be numerous offenders, victims and the criminal justice administrators otherwise called the crime investigating officers. The role played by all of them is different – the offender is the one who commits the crime, affected by various factors and circumstances; the victims are those who suffer physical, social, financial or emotional injury or harm which needs to be promptly redressed by providing them easy access to justice and finally, the justice provider and the persons involved in the mechanism in rendering justice is collectively known as the criminal justice system. The criminal justice system is a mechanism established by governments in its endeavour to control crime by punishing and imposing penalties on those who violate laws. The following are, inter-alia, five important components of the criminal justice system:

- Law enforcement
- Prosecution
- Defence attorney
- Courts and
- Corrections.

Unfortunately, the rights of victims are not considered as one of the major component of the criminal justice system in India. Thus, the author of this paper has analyzed the concept of



victimology as applied in various countries and is desirous to put forth the changes that may be brought in the criminal justice system in India considering the victims as the fulcrum of the system. Victimology can be regarded as a more holistic approach than criminology, acknowledging the systemic injustices that may lead victims to become perpetrators themselves. It also helps reduce the likelihood that perpetrators will commit additional offenses, because it can help them rethink about the individuals they might otherwise victimize

Concept of victimology

Victimology is the scientific study of victimization, which includes the relationship between victim and the accused, the interaction between victim and the criminal justice system i.e. the police and the courts and the correctional officials. This concept also has an implied relationship with social groups, institutions, media, business and social movements. “Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss⁵ or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. Victimization is the process of being victimized or becoming a victim, the action of singling someone out for cruel or unjust treatment. We can say that victimization is the relation between victim and the accused, there is no exact definition available on it. There are different theories of victimization which are as follows:

- Primary victimization
- Secondary victimization (post crime victimization)
- Re-victimization (repeatedly became the victim)
- Self-victimization (variety of reason to justify abuse)

Victimology can also be regarded as the study that outlines the steps to be taken to prevent victimization against crimes and provide legal remedies to the victims of crime. The impact of victimization on crime affected persons drew attention of criminal law jurisdictions around the world and they were convinced that victims need to be treated with compassion and dignity and their fundamental rights must be protected and preserved.

Advent of victimology

Victimology has traced back to 1920's itself. But in 1940 the founders of this branch of knowledge, Mendelsohn, Von Hentig and Wolfgang initiated the use of the term victimology.



This is not a new concept; even before the study on victims was started, there were numerous victims in the society.

Plight of victims in India

In India victims are deprived of their rights under the criminal justice system and they are treated as mere witnesses for prosecuting and punishing the offenders. Victims who have suffered harm are just compensated for the damages that they have suffered through civil law and the accused is held responsible for such compensation. Compounding the victim is considered as justice under the Indian Criminal Justice System.

- I. The Constitutional Remedies for Human Rights Violation
- II. The Criminal Procedure Code, 1973 (herein Cr.P.C)
- III. The Fatal Accidents Act, 1855
- IV. The Probation of Offenders Act, 1958
- V. The Motor Vehicles Act, 1988

Victims of a crime are awarded with compensation for the loss they have suffered based on the above mentioned statutes. Protecting citizens and their property from any kind of harm is considered as the primary objective of the state under the Criminal Justice System. The state, therefore, carries on this duty by ensuring that the citizens do not take law into their hands to satisfy their interests. When a crime is committed, against the norms and principles of the society, state itself becomes a victim for prosecuting and punishing the offender. Criminal Justice system concentrates on the crime, the offender, trial of the case, proving the offender guilty and awarding punishment. After playing their role as witnesses in the proceedings, the victims are forgotten and marginalized. They are not provided with any assistance and when they are not cared of, it creates a sense of angst in them which may subsequently lead to distortions in the Criminal Justice System. Therefore, there is a dire need to shift our focus from the offenders to the victims who have suffered substantial injury. As like how the transformation to crimes from torts took place we also need such transformation on this regard. In case of a cognizable offence, if a victim of the offence approaches the police to give information, the police is obligated to record the information in writing and the same after being read out to the victim/informant has to be signed by the informant. The police cannot refuse to provide the informant with a copy of the First Information Report according to sec. 154(1) and (2) of Cr.P.C. The victim/informant can send the information in the form of writing to the Superintendent of Police provided the police denies to record the same under



sec.154 (3) of Cr.P.C. If in case the police officer refuses to investigate the matter, he/she is required to state the reason for not proceeding with the issue to the informant in the form of facts. This is laid down in sec. 157(2) of Cr.P.C. Generally, the complainants are not treated well by the police and at times instead of attending to their grievances they are being harassed at police stations. Not every time the complaints are recorded truthfully by the police and in many cases the facts are either manipulated or distorted according to their convenience. Offences that are cognizable are made as non-cognizable and viceversa. We can also find that many a times accused himself gives the complaint and the investigation is initiated by him. These may be some potential reasons why the victims get themselves detached from the system as such.

Role of judiciary in ensuring rights of victims

“Justice is not only in the end result; it is also in the process”. Traditionally, control and prevention of crimes, punishment and rehabilitation of offenders and protection of individuals and their property were the only accepted principles of the criminal justice system. Therefore, there is a need to expand the meaning of justice. Justice should not be confined only to conviction or acquittal of the accused but also must ensure to inspire the confidence of the witnesses for conviction of the guilty and particularly the victims of the crime. The victims by providing information regarding the crime set the criminal justice system in motion and the greatest relief available to them is access to justice. In cases of rape, the entire case becomes baseless due to the delay in the collection of samples and here the victims being women and children are deprived of the access to justice. The rape victims, sometimes, for the purpose of taking evidence are held in protective custody which lacks no legal basis as such. The victim is not entitled to engage an advocate of his/her choice even though the accused is. Under sec. 24(8) of Cr.P.C the victim, for the purpose of prosecution, can engage an advocate of his/her choice to assist the former only if the court permits him for the same. The advocate so engaged is bound to act under the directions of the prosecutor and can submit written arguments after the taking of evidence only if permitted by the court [s. 301(2) of Cr.P.C].

Conclusion

The entire criminal justice system in India is offender oriented. Many a times even the judiciary, the legislative and the executive is concerned about the rights of the accused or the criminal. The criminal justice system has to function thereby to provide justice to the victims for which the judicial system must be accessible to those who demand justice. If the system



fails to ensure that the victims and witnesses voice out without fear, participate in court proceedings, have their interests and rights protected, then justice would remain only in letter and not in spirit. Needless to say, the system should also guarantee the protection of victim's families for their testimonies to be true and prosecution to be fair. Our society always blames the victim for the crime and not the actual offender. The situation would have been different had the rights of the victims been taken care by the state and the law been tough on the offenders. To empower the distressed victims and to assure them with their rights, the above said suggestions need a legislative frame work.

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