

Status and Position of Victim in Criminal Justice System

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Abstract – The system of criminal justice is the governmental and commercial organization network that manages offenders charged with conviction. There are several interrelationship pillars in the criminal justice system: academics, law enforcement, forensic, judicial and corrective measures. Meaning of victim, victimology, victim's rights – Indian scenario, the victim and the criminal justice system in India, victim's position in modern perspective, victims' status in the criminal justice system, role of judiciary in the criminal justice system, principal sectors of human rights abuses in the criminal justice system which is concluded that the potential facets of the position of the victim were ignored and the victim became the criminal law's "bad relationship." Several changes in the criminal justice system have led to a decrease in compensation as a criminal penalty.

Keywords – Criminal, Victim, Justice System, Position, Status

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INTRODUCTION

Crime and criminality, tragic events, and brutality are everywhere over the globe. No primitive or industrial civilization, no nation is free of its clutches, whether advanced or not. It is certain that the by-product of the crime, i.e., the perpetrator, would appear under these circumstances. The primary emphasis, though, remains on criminality and violence. Therefore, in the criminal justice system, the perpetrator is virtually a "forgotten individual." India is an oldest civilization in the universe, and since that time India has a sound judicial system. This while considering the problem on criminal justice system, the courts should not overlook the plight of victim and suffering of the people who die, suffer or maimed in the hands of criminals.

The purpose of criminal justice is to defend human and state rights from the deliberate violation of offenders who breach society's fundamental rules and security. This security is pursued in the contemporary welfare state and guaranteed by sentencing the guilty according to the statute. The defendant requires many protections and freedoms to protect him or herself until he or she is condemned to ensure the innocent citizen cannot be victimized. This ideal is raised by enshrining universal rights in that respect to the extent of statutory assurance. These laws have been examined and examined in a large number of cases resolved by the higher judicial authorities. Even if he is being held as a disciplinary

action, it aims to transform the defendant and ensure that following his release from incarceration he is well rehabilitated. From time to time, the courts have ordered the State not to violate the human rights of detainees but to include all requisite services.

The "victim" term can be traced back to the old civilizations. The concept of sacrifice emanates. To calm a divine force or Deity, Victim originally meant the death of a human or animal during a Religious Ritual. The term has taken on more interpretations over the years. It also applies to those who, for some cause, incur damages, losses, or difficulties. Unlawful actions injure the victims of crime. Over the years, some forms of violence have banned such actions of oppression and exploitation, such as rape, robbery, and swindling.

MEANING OF VICTIM

The word victim lacks descriptive accuracy; it means more than just a wounded person, since innocence or innocence and a moral claim are implied to a merciful reaction by others.

"Victim is someone who has been put to death or misfortune by someone else; one who has been seriously suffering in body or property through cruel or oppressive treatment: someone who is destined to suffer from some repressive or destructive

agency: someone who dies and suffers from an undertaking or is voluntarily pursued by others."

A person whose loss or harm was caused due to the act or omission of the accused person, including his or her guardian or legal heir, contains the phrase "victim".

In other words, victim is the person who gets hurt or loss due to any crime, failure of any system; failure of social structure etc. victim of any crime is the old thing. In the perspective era the scope of word victim has to be extended. For the understanding of victim few examples maybe as follows-

- when a political superior does any scam that time population and tax payer are victim;
- when a judicial officer become bias or corrupt all the parties who aspect justice from his side is victim;
- when a person is purchasing any article/ goods and the seller avoid the bill that time buyer and poor population is victim;
- when a ill/ disease go to civil hospital and the officer doctor suggest the patient to go any private hospital that time all the patient are victim;
- when any student take admission in school/ institution and faculty is not available then all the students and their parents are victim;
- When the government (PM, CM etc.) are selling the government institution/ companies to private entity for betterment that time all population who look the face of government for employment are victim etc.

VICTIMOLOGY

Victims, the crime industry which examines the link between the wounded and the perpetrator scientifically, investigating the reasons and the nature of the resulting pain. In particular, the emphasis is on whether the offenders were total strangers, acquaintances, friends, family or even close individuals and why they were aimed at a specific person or location. Victimization may include cost-effectiveness, physical injury, and mental damage.

Victimology examined the many initiatives launched by advocacy and self-help organizations from the early 1970s (e.g.) and laws that allowed victims to have more influence into decision-making processes to settle their cases (e.g., over such matters as sentencing and parole). The study also examines the societal response to victims' suffering via the media; through companies who sell protective goods and services; and through political organizations which

purportedly urge changes and legislation on "pro-victims." Victimologists also examine the pulse of vigilance in retribution for mistakes of the past and the reverse tendency – the desire to accept restitution as a condition for reciprocal healing – which underlies the alternative paradigm of restorative justice. In order to create a consensus within community that the wrong-doer must accept responsibility for measures taken and make real attempts to help the wounded parties and remedy any damage to peaceful connections, restaurateur justice is based on mediation, negotiation and dialogue and compromise.

Victimologists often gather their own data but also analyze in-depth government agencies which collect statistics on official crime on the basis of incidents reported in police departments (such as the Federal Office for the Inquiry's Uniform Annual Crime Reports) or interviewees who are part of a large representative.

VICTIM'S RIGHTS – INDIAN SCENARIO

India has inherited a considerable legal corpus established and codified by the British and continues to administer it. Victim's rights have little meaning under present criminal legislation. Their duty in the legal process is to be silent partners and is simply that of a witness of the prosecution. Victims are viewed as a trivial and avoidable problem, unpleasantness, and occurrence. It was only in the Best Bakery case that there was a debate on how to integrate and perpetuate the rights and interests of victims into the Indian legal system.

There is little legislation on the welfare of victims of crime. The India Evidence Act (1872), for example, prevents the victims from indulging in scandalous or insulting questioning. In 1973, under the Code of Criminal Procedure, the courts are allowed to compensate for the losses they have had as a result of the crimes they have committed. Furthermore, in judicial activities, the courts have occasionally shown some sympathy for the victim and protected the victims throughout the trial. There is, however, no particular legislative mechanism in place to safeguard the rights of victims throughout the trial.

The Committee even advocated the 'Justice for Victims' as one of the indivisible imperatives of the criminal judicial system, as the chairman of the Justice Committee V. S. Malimath was. It advocates comprehensive justice for the victim by enabling him/her in the same criminal procedure to seek compensation for lost or injured persons.

It is thus suggested that the current legal environment in India be examined to what extent

it is enough to safeguard victims of crimes. It also seeks to assess the judiciary's role in improving the distress of victims of crime. Empirical research will be conducted and analyzed to evaluate the real status of victims of crime in the Belgaum area. Based on the research, adequate findings and recommendations are formed.

THE VICTIM AND THE CRIMINAL JUSTICE SYSTEM IN INDIA

Their involvement with the criminal justice system of the nation is a torturous experience for victims of crime. Often victims of crime do not tell the police or the investigation agency about their ordeals. The major cause for this silence is the mistrust, the mistrust, and the crime of the police administration towards victims of crimes that are particularly uncalled for, or that they do not complain or do not lodge FIR. Some victims think they will be taken lightly by the authorities or not taken seriously. Others may be concerned, even if the victims wish, that once a step forward may be done to move the criminal justice system. The fundamental issue is, that once the criminal justice equipment is implemented, the victims feel uneasy and uncomfortable. In the Criminal Justice Administration, there are not enough rules and processes to safeguard victims of crime and witnesses in the nation.

Many times, the government machinery confronts the victims with undignified and insulting behavior. They are not adequately educated and are not treated with due care despite the rights afforded to them under procedural and substantive laws of the nation. When these rights are genuinely granted to them, attention on the rights movement of victims is useless. The first agency that comes into touch with the victim is police machinery, and these are the individuals in uniform who are most afraid of the victims of the crime after the offender or criminal. In addition, the victims of crime, particularly those who belong to the impoverished and oppressed class, may not readily get competent legal support.

VICTIM'S POSITION IN MODERN PERSPECTIVE

In the criminal justice system, victims played a leading part. However, his place was put down during the new era, with the perpetrator being the main character. At this time the victim needs to deal with the common law instead of taking over the law. When the new state came into being, the government took over the duty to enforce the judicial process. The perpetrator becomes slowly the focal character and the survivor left the criminal justice system with relatively little remedy.

With the theories of criminology more sophisticated and the perpetrator is almost ignored, the offense is

being handled against humanity if there is a felony and legal compensation for injury are withheld before the judicial proceedings of the defendant, arrest, and sentencing are concluded. This also led to a complete refusal to compensate the victim for money. While the privilege of the claimant to compensation had declined, until the mid-19th century he remained an important contributor to the litigation process.

While the restitution was gradually loose, the Colonial American Law of the 17th century revealed that this was maintained. In around half of the burglary proceedings in some counties in Massachusetts, compensation was levied, according to small court documents from the 1670s. In case of murder, assault and battery, burglary, and lustful conduct were also enforced. It was also imposed. It was always essential for a thief to render a refund, often three times and sometimes never. The law essentially left the case to the Judge but expressly provided for triple restitution for theft from the courtyard or orchid of a victim.

The movement for redress and compensation in the context of penalty was observed at the beginning of the 19th century. Jeremy Bentham proposed the reimbursement of compensation, holding that, "satisfaction" should be derived from the property of the criminal person, however, if the criminal person is not property. Restitution advocates and supporters of the status of the survivor in criminal justice stood up and fought against the worsening situation of the victim. Compensation is a significant and inseparable solution for a survivor according to them. In 1516 Sir Thomas More recommended that the survivor be rescued and the perpetrator is given jobs in public works. Similarly, in the past century the philosopher Herbert suggested that inmate revenue obtained from jail work be used to separate his perpetrator and that his sentence should be prolonged to the completion of restitution. At the International Prison Congress, organized in St. Petersburg in 1890, the issue of compensation for the victims was being discussed. At the International Congress of Prisoners in Rome of 1885 Raffaele Garofalo raised the question and wrote that reparations for the victim is "a matter of justice and social security, and such a fund had been found in either the Kingdom of Two Sicilies as well as in the Duchy of Tuscany; never seems to be anything to serve the claimants, as the Treasury has always put them in the hands of the researcher in 1891, the International Criminal Congress accepted the following results:

- Modern law does not sufficiently consider the reparation due to the injured persons.
- In the case of petty offenses, time should be given for indemnification.

- Prisoner's earnings in prison might be utilized for this end.

The role of the survivor in the criminal justice system was nominal at the turn of the 20th century. He just reports the case to the police and only becomes a prosecutor during the hearing. His job is restricted to his work. During the offender's investigation and conviction, he has no privileges. The entitlement to restitution is governed by the offender's sentence. In the criminal justice system, the plaintiffs were thus a forgotten property.

It is not only in India where the victim managed to lose his ground as he looked at the justice structures in other countries. It is unlikely for the victims to expect complete restitution of their pain. The survivor is sure of this. Similarly, it is unlikely for a justice framework to take account of the contribution of the witness of a crime. The scheme is not entirely successful nor works, except for instances of State reimbursement. Civil justice system compensation is not enough.

The State deems the harm suffered by the perpetrator as a direct result of the offense to be entirely private while sentencing the criminal.

It may be traced to the explanation that socio-economic circumstances have shifted. Although the age of tremendous reform and progress in the rule of crime, laissez-faire strategies governed the 19th century that left policymakers unwilling to enact programs on social security, particularly those that included victims of crime. However, the condition eventually improved, with the redress and remuneration of the governments of many industrialized nations, taking a portion of absolute responsibility of social victims, becoming social security initiatives on the legislative agenda. The survivor of crime is remarkable and has been honored as a noble individual in nations around the globe, having occupied a place of almost utter anonymity for decades.

VICTIMS' STATUS IN THE CRIMINAL JUSTICE SYSTEM

Chief Justice of India highlights that "the criminal justice system is ambivalent about the status of victims of crime." This is because in criminal cases, historically the United Kingdom, including North Ireland, has had an adverse process. The adversarial process leads to a venue for settling disagreements between the State and the defendant in a criminal justice system. There has been increasing attention to victims' problems within this historical context. Wide-ranging literature has highlighted the rising attention on victims both at the domestic and international level in criminological research and policy development. The hospitality of victims within the criminal justice system is proposed by many sources including victims' lawyers, victims'

activist groups, legislators, and professionals of the criminal justice system who are responsible for responding to the victims' requirements. 6 Commentators in the UK say that rising attention on victims in politics implies that victims are increasingly crucial than just a source of evidence in the way people think about criminal justice.

Academic research shows that the requirements of victims may fall into three groups. *The first category* concerns service needs, including compensation, appropriate judicial treatment, and witness aid. *The second category* is expressive needs, which involve the victim having a chance to take part in the criminal justice process in particular. The demands of participative or decision-making demands are underlined in *the third category* and influence judgments such as bail, penalty and parole choices. However, the third category poses a danger to the opponent's system.

ROLE OF JUDICIARY IN THE CRIMINAL JUSTICE SYSTEM

In the criminal justice system, the judiciary is highly significant and has a very essential function to play inside the system. Their impartial stance is what the evidence is to be acknowledged when a disagreement arises: nonetheless, judges in certain common law regimes take a more important role in choosing whether evidence is to be recorded or rejected. Judges must also acknowledge that justice is more than simply the law. The judge decides if there is enough and sufficient evidence to establish a reasonable belief, that a crime has taken place and that the crime judges play an important part in the system and are authorized by law to seek the truth. But because of the same difficulties they operate mechanically and do not pay attention to job quality.

- Inadequate court structure is a very serious issue, courts are overwhelmed by the fact that quality of work does not provide due care to each case. Additional court personnel are urgently needed to end delayed proceedings.
- There is also a huge lack of resources and the courts lack necessary support facilities, such as stenographers, typists and interpreters, modern office equipment, and telephones, which have negative impacts on courts' operations.
- As a consequence, numerous and needless delays hinder the court's functioning. Sometimes prosecutors are not opposed, the outcomes of the trial have been delayed and the proceedings are hindered.

- Because of political pressure and other considerations, and because of deliberate delays, the court cannot conduct an impartial and fair trial.
- In every case, the prosecutor should carefully prepare the facts and the law. The case file should be reviewed and tested by the prosecution as well as by police cooperation to make sure that testing is made in court by scheduled dates, if required, for reasonable doubt. It must work correctly in the courts.
- It also represents an obstacle to working correctly to finish the unit system for every judge since they do not operate qualitatively. They are solely interested in the whole unit that has been granted by the high courts, numerically and mechanically.
- There is no enough focus on looking for skilled individuals who can deal with criminal matters.
- All legal sectors have developed enormously throughout the years. Every judge cannot control all branches easily.
- Special attention was not paid by the training system to competent and appropriate professional abilities and case/court management.
- The first is the final number of instances. There are two difficulties with which everyone complains. Which everyone knows cannot afford for lack of time on that day, it will take the Court some time to appeal cases and the second difficulty to a frequent postponement.

PRINCIPAL SECTORS OF HUMAN RIGHTS ABUSES IN THE CRIMINAL JUSTICE SYSTEM

- Crime
- Police
- Courts
- Prisons
- State
- Others

The combined contribution of socio-political and economic variables has raised the number of crimes day by day. Some factors include population growth, unemployment rise, and the lack of opportunity for a

certain portion of the population. Crimes coordinated have grown. Such financial, arms, and communication controls have been exercised by criminal gangs. These crimes are not only a significant problem for the police but also for the very viability of a civic society itself. The social, economic, and political fabric of society is overall corroded by criminal gangs. The amount of fear inflicted on society by street criminals is disturbing. These gangs are also accountable in social and economic sectors for large-scale corruption.

Police in a democratic society will be regarded by preserving constitutional and legal rights as preserving the dignity of the person. Democracy is endangered if the police stop respecting individuals' legal and constitutional rights and continually ignore the legal process. There are regular allegations of police assault and brutality from various sections of the nation. It is known that an ordinary criminal complaint is met brutally by police stations and handled with discourtesy, apathy, and unworthiness. Police perversions are nearly invariably the victims of the underprivileged elements of society who are unable to defend themselves adequately. The police take the law and infringe upon the fundamental human rights of suspects in fighting crime. Deaths of fatalities and rape and deaths in police custody demonstrate the horrific records of police deviance. These are perhaps the most brutal sorts of abuses of human rights.

In common law, the criminal justice system is built on the two principles of penal policy, the presumed innocence and the obligation to demonstrate beyond reasonable doubt the criminal accusation. The level of legal knowledge has to be improved and it needs to be a mechanism for promoting justice. The prosecution is another weakness. The prosecutor must, on merit, be chosen; frequently not. Skilled prosecutors should be selected who is again politically unbiased. The prosecution has a fair divulging requirement, which implies that all considerations even those in favor of the defendant must be brought before the court. As Justice Arthusses V and Mr. Erbilt would say, 'if they (the ordinary people) respect the work of the courts, the deficiencies of every other branch of government will survive their respect for the law; but if they lose respect for the work of the courts their respect for the law and order will be lost to the great disadvantage of society.'

Prisons are no less guilty, like police, of abuses of human rights. Only by visiting jails can the reality be measured. Jail injustice abounds, and despite two dozen studies on prison reforms, such as a Mulla Committee study, the criminal system has not much improved. The Supreme Court commented also in the case of HussainaraKhotoon, "The legal system that allows men and women to be imprisoned for a long time is

a crying disgrace. The protection and enforcement of human rights are yelling from the top of the hall. We speak about the protection and protection of fundamental liberties with passion and eloquence. But do we not deny the right to these anonymous people who languish for years in prison for crimes they might eventually be revealed to have not committed? Do we not for years retain fundamental freedom from these abandoned and vulnerable people? Expeditions are tracks and detention free are not part of human rights and fundamental freedoms "There was a mistake.

State which seems to be the worst offender of human rights in the nation. The State machinery's coercive operations undermine the fundamental rights. Increased powers in the executive's hands have grown worrying. In its numerous manifestations, we bear witness to the State's power and supremacy. Many human rights campaigners and civil liberties organizations, for their egregious contempt of basic rights and human dignity, have blamed the government of the Central and State. The autocratic inclination of the governments has made the State an oppressor of the poor. Worse, State terrorism is being considered as a response to private terrorism.

CONCLUSION

In this article we have done the study on status and position of victim in criminal justice system, The conclusion of the feudal era saw the principle of restitution removed from retribution and began to vanish. Yet its potential as a judicial punishment never expired, even though it decreased. Perhaps less understood existed then since we know nothing about crime now. The potential facets of the position of the victim were ignored and the victim became the criminal law's "bad relationship." Several changes in the criminal justice system have led to a decrease in compensation as a criminal penalty.

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