



PRESENT SCENARIO OF CONCEPT AND DEVELOPMENT OF VICTIMOLOGY IN INDIA

L. D. Dabhade and N. A. Qadri

R. R. Law College, Washim

Abstract

Victimology is scientific study of victim of crime and hence subs discipline of Criminology. Victimology could be defined as science of crimes and their victims. Its objective is to study the relationship between victims and offenders, to make victim and offender as a “penal couple”. Victim now no more a ‘forgotten-man rather stands at the center stage of entire criminal justice system. Some of the important theories of Victimology such as Victim precipitation, Routine Activities Theory, Penal Couple Theory, Theory of Consumer Victims were described earlier the important consequences of victimization such as Physical, Financial, Psychological, Reputational impacts on human beings. In the present paper an endeavor has been made to discuss the development and concept of victimology in India and present scenario as sub branch of Criminology.

Keywords: Victim, Victimology, Criminology.

Introduction:

CONCEPT OF VICTIMOLOGY: Victimology is a study relating to victims of crimes who suffered mentally, physically, materially and psychologically in hands of the offenders and of the need to compensate such victims in deserving manner. In modern society number of crimes is increase and consequently number of victims also increasing proportionately. Because of this there is change in the attitude of not only the state of victim but also the people and the society at large for providing protections and compensation to the victims keeping in view the gravity of loss caused to them due to the criminal acts of the offenders.

The administration of criminal justice system is not much concern with the victim of crimes . The entire focus of criminal justice system is on the offender either to punish him or to seek him reformation or rehabilitation. Thus, the liberal criminology unfortunately ignored the victim & concentrated mainly on protection of interest of criminals very recently the attention has been drawn to protection of interest of victims of crimes which has resulted into a new discipline commonly known as victimology criminal law does not give separate identity to victims of crime. But the due to the new concept of victimology are which is concerned with victims of crimes who suffer of mentally, physically, materially & psychologically in the hands of offenders & it is need to compensate such victims in a deserving. In order to understand the term ‘Victimology’ it would be essential to understand the term ‘victim’.

DEFINITION: Victimology is a systematic study of victimization, the relationship between victims and offenders and interactions between the victims and the criminal Justice system.

Victimology could similarly be defined as science of crimes and their victims. **Andrew Karmen** broadly defined Victimology as the study of- a) Victimization, b) Victim offender relationship, c) Victim criminal justice system relationship d) Victim and media, e) Victim and the cost of crime and f) Victim and social movements.

HISTORY: Literature reveals that victimology has been accepted as a part of the criminology only during 1940. Victimology is the scientific study of victims of crime a sub breach of criminology. It seeks to study the relationship between victims and offenders. The scientific study of victimology can be traced back to the 1940s and 1950s. two criminologist **Mendelsohn**, and **Von Henting**, began to explore the field of victimology. They are considered as the “Fathers of study of Victimology”. **Von Henting (1940)** studied victims of homicide and said that the most likely to the type of the victim is the “depressive type” who is an easy target careless and unsuspecting wolfgang another victimologist followed this lead and later theorized that “many victims precipitate homicide were in fact cause by the unconscious desires of the victims to commit suicide.

ORIGIN AND DEVELOPMENT OF VICTIMOLOGY IN INDIA

In India during the ancient Vedic period objective of criminal justice system was not only imposing punishments to the criminals but also to compensate the victims. During the period of *Moghal and British Rule in India*, more importance was given to the punishment of criminals rather than providing measures for compensation to the victim. Criminal justice system was focused only on providing directions to the offenders and measures to reform them. However, over the years especially from

1980s, importance was focussed on the protection of victims especially because of judicial intervention.

CONCEPT OF VICTIM : Concept of victim includes any person who experience injury, loss or hardship due to any cause 'Victim' means a person who has suffered any loss or Injury caused by reason of the act or omission for which the accused person has been charged and the victim Includes his or her guardian or Legal Hairs.

Article 1 and 2 of United Nations General Assembly Declaration of Basic Principles of Justice for Victims and Abuse of Power defines the term 'Victim of Crime' as below-

Article 1 : 'Victims means those who individually or collectively, have suffered harm including physical or mental injury, emotional suffering , economic loss or substantial impairment of their fundamental rights, through acts or omission that are the violation of criminal laws operative within member states.

Article 2 : A person may considered victim under this declaration regardless of whether the perpetration is identified apprehended, prosecuted or convicted and regardless of the familial relation ship between the perpetration and the victim. The term 'Victim' also includes, where appropriate the immediate family or dependents of the victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

CATEGARIZATON OF THE VICTIMS

Dr. Von Henting identified the following categories of persons who are victims of crimes.

A) Poor and ignorant who are susceptible more to the offence of fraud. B) Requisite or greedy people who are susceptible more to the offence of fraud. C) Depressed or affective person who are in different to harm or injury in prospect. D) Wanton or Sensual person who invite the risk of victimization on their own acts. and E) Lonesome and heat broken person vulnerable to crime due to loss of their critical fealties

According to **Von Henting** young females, old, mentally defective and deranged, intoxicated, immigrant, member of minority groups, and normally dull persons are the general classes of victims.

Benjamin Mendelson Classified the victims into following categories

- a) Completely innocent persons (children, persons in sleep etc)
- b) Persons with minor guilt and ignorance (such as pregnant woman)
- c) Voluntary victims (who commit suicide)

d) Persons who are more guilty the offenders (who provoke others to commit crimes)

e) Criminal minded victims

Needing special attention certain categories of vulnerable persons and victims needs special and grater attention

1) Elderly victim: In western countries elderly persons tend to be in lower income group and there for needs special attention. In U.S.A the problem of crime against elderly person to sufficiently serious to have drawn the attention of white house conference.

2) Child victims: The problem requires attention regarding offences involving violence in general and sexual abuse in particular.

3) Victim of sex offences: Offences against women in particular serious offences such as rape, have been increasing everywhere including in India and greater attention is now given to the problem of victims. Perhaps this class of victims, irrespective of the age factor deserves the maximum consideration in view of the emotional, psychological and human problem involved. The feeling is almost universal among the victims that instead of being treated as victims, they are treated by the police and law agencies as if they themselves are the culprits. Highly humiliating and scandalous questions are often put to the victims despite the legal bar against the questions. Some Legislative measures have been introduced in order to alternate the suffering or the rape victim. For e.g disclosing the identity of the victim of the offence of rape has been made punishable (sec 228-A, the Indian penal code, 1860) proceeding in rape trial are to be held in camera (sec. 327(2). The code of criminal procedure, 1973.

4) Weaker sections : Member of ethic, religious or linguistic minorities in pluralistic societies may be especially vulnerable to crime, in conflict resulting from socio-economic imbalance and political factors. A number of caste and communal riots occur each year in the country and lead to the rape and looking of properly on a larger scale in which the main sufferers are belonging to minority and weaker sections.

OTHER CATEGARIES OF THE VICTIMS:

Victims can also be categorized as-(i) Primary :A Primary victim is one who suffers an injury whether physical , psychological or financial.

(ii) Secondary :- A Secondary victim is one who suffers as and result of injury caused to the primary victim by virtue of some relationship

(iii) Tertiary Victims :-A Tertiary victims is one who experiences harm or injury due to the criminal acts of others although he has no connection with the disputing or rival parties. for e.g. peoples who are the targets of communal riots or terrorists affects.

CONCEPT OF COMPENSATION TO VICTIMS:

1. Traditional concept: “Ubi remedium ibi jus” (where there is remedy there is right) principle was traditionally applicable for awarding compensation. All primitive society the concept of Criminal law was unknown. Every crime including murder could be paid for by way of pecuniary redress Indeed every crime was a civil wrong and not an offence against society at large.

2. Modern concept: “Ubi Jus ibi remedium” (where there is right there is a remedy) principle is now applicable. Modern concept of compensation is that no one should left without remedy.

In U.K compensation are payable in under the “criminal injuries. Compensation scheme, 1964. The basis of quantum of compensation is same as that of damages in civil injuries and the money payable is for pain and suffering loss of earning capacity. The criminal Justice Act of U.K provides that if a court contemplates to impose both fine and compensation order and the offender lacks the capacity for both the payments the court is to issue compensation order only. Since 1988, the law requires the court to record reason if no order for compensation is passed.

In U.S.A California was the first state to introduce laws to compensation victims of violent crimes in 1969 and as of now, 45 out of 50 states have such programmes and restitution legislations have been passed by all the states to empower the court to order compensation by the offender to the victim and reasons must be recorded when the compensation order is not passed.

STATUTORY PROVISION OF COMPENSATION TO VICTIMS IN INDIA:In India there are some general and specific legislations containing provisions relating to the compensatory relief apart from Constitution of India discussed as below.

a) Compensatory relief under Criminal Procedure Code 1972: Sec. 357 (1) and(2)of Cr.P.C. empower the trial court to award compensation to the victims of crime.The compensation provided in sec.357(1) includes costs, damage or injury, suffered or loss caused due to death or monetary loss incurred due to theft or destruction of

property etc. Similarly Sec.357-A is inserted by Amendment Act 2008 in Cr.P.C. and it provides a scheme relating to victim compensation. Accordingly every State Government is required to prepare a scheme for providing funds for the purpose of payment of compensation to a victim or his dependent who have suffered any loss or injury due to the crime.

b) Compensation under Probation of Offenders Act , 1958: Sec.5 of this Act empowers the Court to make order directing to pay compensation.

c) Compensation under the Motor Vehicles Act,1988: Secs.142 and 163-A of this Act provide the manner of procedure for and the quantum of compensation.

d) Compensatory relief under the Constitution of India: Concept of compensatory relief has been introduced by the Apex Court by interlinking the issues with Articles 14,20,21 etc which are related with Fundamental Rights while dealing with the cases of rape, custodial torture or death, environment pollution etc. by making the State primarily liable to compensate the victims.

JUDICIAL APPROACH TOWARDS VICTIM JUSTICE:

The first landmark judgment where compensation to the victim ordered by the Madras High Court and upheld with some modifications by the Supreme Court of India was

1) *Palaniappa Gounder v.State of Tamil Nadu:* In this case, the High Court after commuting the sentence of death on the accused to one of life imprisonment, imposed a fine of Rs. 20,000 on the appellant and directed that out of the fine, a sum of Rs.15,000 should be paid to the son and daughters of the deceased under Section 357 (1) (c) of the Code of Criminal Procedure, 1973.

2) *Guruswamy v. State of Tamil Nadu:* In this case the accused was convicted on a charge of murder. The victims were his father and brother. While reducing the sentences, the Supreme Court held that the offence was committed during a family quarrel and though the victims are the father and brother of the appellant, in the circumstances of the case, the extreme penalty was not called for. The accused had also been under sentence of death for a period of six years. But in reducing the death sentence to imprisonment for life, it was held that the widow and her minor children should be compensated for the loss they have suffered by the death of the second deceased. The court

imposed a fine of Rs.10,000 to the appellant and ordered the same to be paid as compensation to the dependents of the victim.

3) *Sarvan Singh v/s State of Punjab*: In this case it was said by the court that in awarding compensation the court should just consider what compensation ought to be awarded to the heirs of the deceased and then impose fine which is higher than the compensation. The court laid down that the amount of fine should be determined on the basis of various factors including the nature of crime, number of injuries and the paying capacity of the offender.

Conclusion:

Criminology is mainly deal with the criminals, their social backgrounds, the causes of criminality, methods of punishment and crime prevention. Little attention has been made on the victim . Victimology is not confined now in studying the 'Penal-couple' relation only, the compensation to victim is also gaining importance. A person sustaining injuries or his dependents in case of his death may be provided compensation. Western countries like U.K. & U.S.A. have enacted a separate branch of law in this regard. In New Zealand, the provision has been made for "indemnity fund" in the State Treasury. In India, various legislations in

general and The Code of Criminal Procedure, 1973 in particular which talks about the compensation to victims of crime. A new provision in the code has been added in 2008 i.e. section 357-A which incorporates 'victim compensation scheme'. Even though various legislative measures are there for the protection of victim of crime it is need to make "**Victimology**" as a separate branch of study as a sub-discipline of "**Criminology**".

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