



A STUDY OF VICTIMS RIGHTS IN CRIMINAL JUSTICE IN INDIA

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ABSTRACT

There has been a problem with criminal behavior ever since our society was first established. It is still not able to exercise sufficient control over criminal conduct, despite the fact that laws and statutes have been enacted over this time period. As a result of the absence of preventative measures taken by the agency responsible for coordinating law enforcement, the victims of such actions are experiencing unbearable misery and torment for no fault of their own. The act itself occurred as a result of the absence of preventative measures. As a result, victims of crime require protection from a range of supports, including those that are of a physical, psychological, and economic type. This is because of the circumstances described above. However, the issue that needs to be answered is whether or not they are receiving any of these sorts of support from any of the institutions that are collectively referred to as the Criminal Justice System. The objective of this article is to make an attempt to investigate the status of victims during the process of due process and the provision of justice to them. This is because of the reasons stated above.

Key Words: Victims, CJS, Rights.

INTRODUCTION

It has been confirmed by research conducted all around the world that crime is a global problem, as many people previously suspected. Infractions of the law are an issue for society. On account

of the enormity of the damage that it produces, criminal activity is the topic that receives the greatest attention in society. Criminal activity has increased on a worldwide scale, affecting not only affluent nations but also rising nations and communities that are more traditional. Criminal behavior is causing the social fabric to become more and more damaged. Criminals are frequently not born but rather are generated through a combination of circumstances and chances. This is the case in many cases. While some criminals engage in illicit activities as a form of self-recovery, others undertake such activities as a result of excessive rage or a lack of endurance. In spite of the fact that the criminal justice system is primarily concerned with the rehabilitation of criminals, it has, for the most part, ignored the predicament of victims, who are forced to suffer the weight of wrongdoings for which they are not responsible.

Crime has an effect on victims and the people who are closest to them. In addition, victims of many crimes experience significant financial losses as a consequence of the crimes. Crime can have a wide range of repercussions on victims and the people who care about them, ranging from minor inconveniences to severe psychological and physical trauma. According to the statistics provided by the Canadian Centre of Justice, 31% of victims of violent crime had their daily lives disrupted for at least one day, and 27% of victims had their lives disrupted for two or more days (Aucoin & Beauchamp, 2007). In eighteen percent of the cases, victims were unable to participate in their typical activities for a period of nearly two weeks. Regrettably, the vast majority of the events, which accounted for 78%, reached close to home. A total of twenty percent of victims, regardless of the type of victimization they experienced, reported experiencing feelings of anguish, confusion, or frustration as a direct result of their treatment. A lower level of safety was indicated by victims in comparison to those who were not victims. To give one example, just 37% of victims of violent crimes reported feeling highly secure walking out alone after dark, in contrast to 46% of people who were not victims of violent crimes. The percentage of women who had experienced violence who reported feeling extremely comfortable when questioned about their level of safety while traveling alone after dark was slightly lower than the percentage of men who had experienced violence.

The Code of Criminal Procedure in India distinguishes between two types of offenses: those that are cognizable and those that are not cognizable. At the time of cognizable offenses, a police

officer may be able to seize a suspect without first obtaining a warrant from the court. In order for a law enforcement officer to make an arrest for a crime that is not immediately recognized, the officer must first get a consent warrant. A recent publication by the Government of India titled "Crime in India" states that in 2007, there were around 1.99 million cognizable offenses registered under the Indian Penal Code (IPC), and 3.74 million under the Special and Local Laws (SLL). This information was obtained from the year 2007. It was shown that there were more than five and a half million violations of both the SLL and the IPC. While there were 455.7 total cognizable crimes per 100,000 persons in 2006, there were 504.5 total crimes per 100,000 people in 2007.

As a consequence of the criminal justice system's concentration with criminals and the court process, victims of crime are usually excluded from consideration and overlooked. People who have been victims of crime in India have typically received very little attention, despite the significant progress that has been made in human rights campaigning and legislative reform.

The goal of this study is to investigate the criminal justice system in India by looking at it through the prism of the rights of victims. The purpose of this initiative is to draw attention to the challenges that victims face, the laws that are in place to defend their rights, and the disparity that exists between the two.

All of the components that make up a victim's right to a comprehensive concept of victim rights include the right to justice, the right to fair treatment, the right to compensation, the right to support services, and the ability to participate in legal procedures. These rights are absolutely necessary in order to ensure that victims are treated with respect and dignity and that they are provided with the resources they require in order to deal with the aftermath of a crime.

Additionally, the study will investigate the many ways in which various entities, such as the courts, civil society organizations, law enforcement, and service providers of legal assistance, might assist in protecting the rights of victims. The effectiveness of various policies and programs will be evaluated in order to improve the availability of assistance to victims and to fulfill their requirements.

This research is being conducted with the intention of drawing attention to these issues so that they can be discussed in policy meetings and utilized in advocacy campaigns with the goal of improving the legislation that pertains to victims' rights in India. In the end, it all boils down to the necessity of a criminal justice system that is victims-centered, rights-based, and prioritizes the interests of victims while also preserving the concepts of due process and responsibility.

PROVISIONS FOR VICTIMS IN INDIAN CRIMINAL LAWS:

It was after years of fierce debate and discussion that the United Nations General Assembly ultimately recognized the International Covenant on Economic, Social, and Cultural Rights in 1985. Some of the stipulations of the covenant were finally acknowledged when the assembly officially accepted the document.

In general, a victim's rights can be classified in to following classes:

1. Right to be treated with self-respect
2. Right to notification.
3. Right to be present.
4. Right to be heard.
5. Right to rational protection from terrorization and injury.
6. Right to restitution.
7. Right to information.
8. Right to compensation especially for crimes of violent nature.
9. Right to speedy proceedings
10. Rights to privacy

A victim in our Indian criminal justice system goes through the anguish of being the victim of a crime and the agony of having to endure the manipulation of the system on a daily basis. On the other hand, victims of crime do not receive the funds that are used to provide convicted criminals with things like housing, food, clothing, and entertainment while they are incarcerated.

One of the most significant shortcomings of our legal system is that it does not give priority to the requirements of crime victims and the families of those accused of the crime. Nevertheless, there is still a lack of agreement from our penal legislation regarding the compensation of

victims. This demonstrates a problem with our system that has to be addressed by legislative bodies.

Constitution Of India-Rights To Victims:

The Constitution of India is considered as the highest law of the nation because it is the source document from which all Indian laws were derived. In accordance with the Indian Constitution, the idea of victim compensation is supported, and the rights of victims are protected. When read in conjunction with the Directive Principles of State Policies that are articulated in Articles 39A, 41, 46, and 51C, Articles 14 and 21 enshrine significant fundamental rights.

The state ensures the provision of free legal help and makes it available to individuals in accordance with Article 39A in order to advance justice that is founded on equal opportunity. Given that it necessitates, among other things, that the government begin to build procedures to garner public aid in instances of incapacitation and unreasonable want, Article 41 of the Indian Constitution has far-reaching consequences for victimology. This is because it mandates that the government begin to establish these mechanisms. Through imaginative and compassionate interpretation, one might discover the roots around which constitutional victimology is built. In addition, Article 21 ensures protection against the unlawful restriction of life and liberty by mandating that the state may provide financial compensation to victims of criminal violence.

Victim's Rights Under Indian Penal Code:

Any Indian citizen who commits a crime within Indian Territory is subject to the rules and regulations of the Indian Penal Code. Following is a list of infractions and the punishments that are associated with them. One definition of an offense under the Code is an act or omission that is subject to legal punishment. Through the Criminal Law Amendment Act of 2013, the definition of rape in the Indian Penal Code (Section 375) was broadened, and many new offenses were established to protect women from assaults. These new crimes include acid attacks (Sections 326A20 and 326B21), sexual harassment (Section 345A), voyeurism (Section 345C), and stalking (Section 345D).

As a result of the evolution of civil remedies in the contemporary era, compensation and restitution, two major remedies in the criminal justice system, have become civil remedies. This

caught the interest of a large number of jurists, who then set out to discover novel approaches to examining victim issues in an effort to bolster their case and place them on an equal footing with the accused.

Victim's Rights Under Code Of Criminal Procedure:

We are discussing both the content and procedural aspects of criminal law in India when we talk about the country's criminal justice system. Subjective criminal law is the body of law that oversees the administration of substantive law, which is responsible for defining crimes and the punishments that are associated with them. The substantive aspects of criminal law would be rendered virtually meaningless in any circumstance if criminal procedure were not present.

Section 206(1) and Section 206(3) of the Criminal Procedure Code provide the framework for the procedure that is used to negotiate a plea bargain. The concept of plea bargaining was first presented by the Law Commission of India in its 142nd, 154th, and 177th reports respectively. In these findings, the Committee stated that the Indian criminal justice system ought to implement the concept of plea bargaining as a means of decreasing the amount of work that the judicial system has to do and accelerating the process of resolving criminal cases.

The Public Prosecutor, who is appointed by the state, serves as the advocate for the victim. In accordance with the amendment that was made in 2008, a provision has been added to Section 24(8) that gives the victim the ability to choose an advocate of his own choosing to assist the public prosecutor.

Despite the fact that the Code does acknowledge certain rights of victims, these rights are not nearly as robust as the rights of those who have been accused. Consider the fact that the victim has the ability to select his own private attorney as an illustration. This attorney's authority, on the other hand, is limited to the appointment of a site where the evidence can be recorded, and they are only permitted to present written arguments if the court gives them permission from doing so.

a. Rights Of Victims During Filing Fir:

As the principal authority, the police play a significant role because they are the first authority to investigate the matter from the point of view of the victim. However, it is unfortunate that the

victims in India continue to receive the treatment that is described in the United Nations Handbook on Justice for Victims. Despite the fact that they are the principal authority to investigate the case, the police are completely uninformed of the international advances that have taken place in areas such as victimology and the appropriate care that should be provided to victims.

In the perspective of victims, a negative and bad treatment by the police themselves will establish an incorrect picture of the Indian criminal justice system. This is due to the fact that, as mentioned in the United Nations Declaration, treatment with compassion and respect for the victims' dignity is without a doubt lacking at this time. Section 25 of the Indian Evidence Act, which states that no confession made to a police officer shall be proved as against a person accused of any wrongdoing, is not taken seriously. As a result, the government and the police department end up pursuing the policy of cleansing the police in order to provide victims with better care.

b. Rights Of Victims During Judgement:

Within the context of a criminal proceeding, the victim's position is terminated after the judgment has been handed down. After the verdict has been rendered, however, the victim ought to be granted certain rights in order to guarantee that they receive complete justice.

- **Compensation to victim:**

At the same time that the verdict is being revealed, the victim should also be afforded the right to receive compensation for their losses. According to subsection 357(3) of the Code of Criminal Procedure, the court has the jurisdiction to award compensation to the victim for any loss or injury that they have experienced, even in instances where the accused was not compelled to pay a fine. This is because the court has the authority to do so.

During the course of its ruling in the case of Harikishan & State of Haryana v. Sukhbir Singh, the Supreme Court of India made the observation that courts in India rarely employ section 357 of the Criminal Procedure Code in order to give compensation to victims of sexual assault. By means of the Amendment Act of 2008, the legislative body inserted a provision into section 372 of the Code that grants victims the ability to appeal their

convictions. This action was taken after taking into account the recommendations that were offered by the Malimath Committee and the Law Commission.

Conclusion

The victim's role in the Indian Criminal Justice system is limited to that of a witness in the prosecution of an offense. This is because the common law tradition dictates that the victim's role in the system is limited to what it is. According to the Indian criminal justice system, this is something that is followed. The reason for this was the unfavorable perception of the victim as a person who has suffered harm, which may involve not just physical or mental injury but also emotional suffering, economic loss, or major damage to their fundamental rights. This perception was the cause for this.

As a result of this, the Indian criminal justice system has developed into a channel through which the state exercises social control by assuming the right to prosecute the accused without the victim being present. This is a consequence of the fact that the victim is not present. It is imperative that the current system of criminal justice, which is vertical, be replaced with a horizontal justice system. In this system, the system of punishment would be replaced with a system of negotiation, and the victim would play a significant role in the process. On the other hand, our system continues to function in accordance with the vertical paradigm of the criminal justice system.

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