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The Evolution of Victim Rights: From Marginalisation to Legal Recognition

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ABSTRACT

This paper sheds light on the topic of rights of the victims as with the emphasis moving from offender-centric frameworks to more balanced methods that recognise the interests and voices of victims, victim rights have emerged as a crucial element of contemporary criminal justice systems. This study examines victim rights' development, application, and difficulties, noting how they have changed both the experience of those affected by crime and the legal system. In the past, victims had little opportunity to participate in the legal system or seek restitution and were instead assigned to passive roles. That being said, during the last few decades, victim empowerment changes have been greatly accelerated by advocacy groups. At different stages of the legal process, the rights to information, presence, and hearing are important legal procedures. Victims are now guaranteed timely updates by several jurisdictions.

Keywords: *victim, rights, types of various rights.*

I. INTRODUCTION

It was from Latin that the word "victim" originated. Its origins can be traced back to the Latin word *victima*, which denoted a living being sacrificed, frequently in worship. The meaning grew throughout time to refer to anybody who experiences loss or harm, particularly in cases of violence, oppression, or other wrongdoings, transcending its religious connotations. When someone experiences hardship as a result of events beyond their control, such crime or bad luck, the term "victim" in English started to be used more broadly by the late 15th century, and it finally acquired the wider definition that is known to us today.

The problems of the victim arises from the factory that the crime is not seen as a conflict between two people, but as a conflict between the perpetrators & individuals. It is believed that crimes doesn't impose any responsibility on victims, but creates a debt to society that is repaid when the criminal is convicted. Therefore, it has no place or role in criminal justice. Instead of denying that the main purpose of punishment is to repair the damage done to the victim by the crime and prevent future damage. However, in the twentieth century, at the end of World War

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II, some criminologists began to understand the importance of learning about crime to better understand crime, its history and context and relationships between the victims. Later, European countries and the United States passed laws to compensate victims in their criminal justice systems.

II. MEANING OF VICTIM

This question is easily fallible and does not seem to require a definitive answer. We can start by observing that contrary to popular belief today, a clear difference of opinion between "victim" and "crime" has just emerged in public opinion, and that in the past, "victim" was a word that could be associated with crime and with pain. ²This is supported by "a person killed or tortured by another person". But it then goes on to say: - A person who is a victim of abuse, torture or other harsh or unfair treatments, or who has suffered death, injuries, harmful or other suffering due to outcome, situation or pressure.

(A) Distribution of Victim³

Victimology studies done by different researchers have created great interest and concern among victims all over the world, including India. Although many scientists have prepared different classifications, some weak victims need special attention and importance to reduce violence and poverty. The differences between these sacrifices are as following:

a) People with disabilities: Aging affects people with disabilities in many ways. As the person grows up, he becomes physically weaker and dependent on the people around him. With his increasing money, he becomes most valuable one. In Western countries, most of these people generally belong to higher income groups, and single people are more likely to suffer. Before this, such a situation did not exist in India, but recently we have seen elderly couples living alone in big cities thereby being more susceptible victims to the crimes like robbery and dacoity, where in some cases it results in loss of their life.

b) Young Victims: Whether animal or human, it is the vulnerable that is often the easiest target of any kind of crime. Most of these people are young, children, physically or sexually weak. Youth is the most vulnerable period of life. They are very friendly in nature and can quickly become victims. Children, especially those who are trafficked, are frequently used in sex trafficking, including prostitution, pornography, and sex trafficking.

c) Violence against women: Crimes against women, especially sexual violence, are

²Donnelly. J. (2003) Universal Human Rights in Theory and Practice. Ithaca: Cornell University Press.

³Kilpatrick, D.

increasing all over the world, including in developing countries such as India. But more than the crime it is the court proceedings that are painful and tiring. The case is to prove that the victim did not consent. It is determined by attacking the behaviour of the victim. Courts often require proof of the victim's objection. Harassing the victim's credibility will lead to the crime of further proof of corruption. Although the law prohibits asking questions but the victims are often asked embarrassing and embarrassing questions. Finally, some good measures have been taken in the new reformed laws where the victim protection schemes have been incorporated.

d) Victimised women: Victimised women are considered another form of victims of gender based violence. While crimes against women in Western countries are only sexual crimes but in India women are subjected to torture, prostitution, domestic violence, death, etc. Apart from the above mentioned offences, the women are also subjected to the crime of honour killing for bringing disrepute to the family name and reputation.

Violence against women is due to low status of women in society and religion. Although the law abolishes bad practices such as sati and devadasi system but we still see that these practices, especially the devadasi system, are prevalent in some areas.

e) Vulnerable people as victims: Vulnerable victims are the victims who due to their certain special circumstances existing at the time of the commission of the crime are at a greater risk of exploitation or harm due to their peculiar circumstances. Members of ethnic or religious minorities in various social situations may be particularly vulnerable to crime because they suffer from political and social discrimination and marginalisation. These groups are often scapegoated and used as pawns in the political upheavals or the power struggles. In addition to them there are many other vulnerable victims such as persons crippled with old age, disease, persons with limited financial resources or suffering from social isolation or cultural or linguistic barriers.

(B) The need to protection of the victims

Victim's needs are often ignored. Most criminals have no obligation to repay their victims because criminal law defines crime as a crime against the states and not a crime against the victim. The purpose of the criminal justice system is to maintain order by punishing criminals and working to ensure that they don't break the law again. The victim's feelings and needs are often not taken into account. Unfortunately, this leaves victims out in the cold. Victims will suffer physical injuries, financial losses and depression. Crimes can affect their lives temporarily or for life. Being a victim can feel powerless and victims often need help to regain control of their lives. The victim also needs to prove that he is "innocent".

(C) Crime's effect on the victims

After a crime, victims may experience a variety of immediate, short-term and long-term effects. Every victim is unique. Self-harm is affected by the victims and post-injury self-awareness, level of self-support and relationships, reactivity of work and receipt of support services. Injuries caused by victimisation are a direct response to the consequences of the crime. Victims suffer from great material and moral suffering. Injuries suffered by victims can be divided into four different categories: *Physical, mental, financial and emotional*.

III. VICTIM'S RIGHTS

Victim's rights advocates believe that a paradigm shift in criminal justice from retributive to retaliatory justice is necessary. This will increase the accountability and transparency of the legal process thereby letting the victim feel safer and secure during the entire justice delivery process. Victims will approach the system and testify only if the system provides adequate protection for them and their families and this can be done only when the system recognises and respects the rights of the victims.

However, victim's rights are generally divided into the following categories: ⁴

- a) The right to respect and dignity
- b) The right to be informed.
- c) Right to participate.
- d) Right to comment.
- e) The right to protection against threats and violence.
- f) Right to correction
- g) Right to information.
- h) The right to seek compensation (for victims of violent crimes).
- i) Right to Fairness
- j) Right to Privacy.

a) **The right to respect and dignity**

The victim's right to respect and dignity is a fundamental right recognised in many international and national statutes and at all levels and by all representatives of justice. This fundamental right should be included in all laws defining victims' rights. This right is protected as a

⁴. Victimology, available at : <http://what-when-how.com/interpersonal-violence/victimology>

fundamental right in Article 21 of the Constitution. Article 21 of the Constitution is widely used to protect the life and freedom of individuals contrary to the prescribed procedures. It guarantees the right to live with dignity which includes the right to be treated with respect and honour by the state and the society and to be protected from intimidation and retaliation.

b) Right to Information

The authorities at all levels should notify victims about the procedure going on in their case like when the hearings are cancelled and rescheduled. Informing the victim is considered the starting point of all other victims' rights. If victims do not know that they have rights, how would they know to exercise them? Victim is usually notified by the court or the service provider on the phone, by letter or by e-mail. In addition, cases can be edited from a computer or case reports can be downloaded from the court's website to be aware of the court proceedings. In the new reformed criminal laws, a provision has been made to inform the victims on the progress in the investigation of the case within 90 days and also victims will have a right to receive a copy of the F.I.R.

c) Right to participate

The victim's present state (known as the present) in its simplest sense acknowledges that the victim has the right to come to the person at the time of the unlawfulness of the Torture. Although the details vary, several countries, including the United States and Germany, have defined the right to participate. Some state laws provide for this right in almost all its terms (e.g., "The victim has the right to participate in any judicial proceeding to which the defendant is entitled"). Others make arbitrary decisions about the victim's right to go to court, allowing judges to decide on their applications.⁵

In India, the Penal Code does not address the fundamental rights of the victim. There is no clear provision regulating the rights of the victim during the trial period. However, there are also some rules similar to this rule, and some of them may occur at the beginning of the trial and may emerge as evidence in the prosecution. The Criminal Code also prohibits the hiring of a lawyer for discussion. However, what is important is that during the establishment of the sentence and the announcement of the verdict, the important right that will exist throughout the trial is recognised by him or his lawyer.

A crime victim's right to participate in a hearing or trial is very important because it gives him/her the opportunity to participate in criminal justice. Victims often feel that there is no

⁵.Meadows, R.J. (2007) *Understanding Violence and Victimisation* 4th Ed. Upper

substitute for testifying in court about their personal information. The right to trial is important because :

It helps victims play an important role in seeking justice, holding perpetrators accountable, and promoting safety for themselves and their communities.

It helps to create equality and justice by informing judges, magistrates, court personnel and administrators about the real persons of the crime.

It helps inform victims about what happened in the case and provides victims with the information they need to quickly ask attorneys and questions about their case and its progress.

d) The right to be heard

A 'victim' under the Code of Criminal Procedure, 1973 (Cr.P.C.) has the right to be heard at every stage after the offense, including the decision regarding the accused's bail application, according to a ruling by the Court of Appeal. The right of victims to take part in the proceedings cannot be delayed until the trial begins. The Court underscored the need to provide victims with a fair and efficient hearing process. The Court observed that the jurisprudence surrounding victims' rights to a hearing has changed over time as a result of the United States' passage of the Victims' Rights and Restitution Act of 1990, the United Nations Declaration of Basic Principles of Justice for the Victims of Crime and Abuse of Power, and the Victims Crime Act of 1984⁶.

It was also suggested that the victim be given the freedom to select the advocate they want to represent them, or that the State pay for an advocate if the victim cannot afford one. The Committee duly acknowledged the victim's entitlement to take part in the criminal trial and to be informed about the investigation's progress, as well as their right to be heard at all critical junctures in the criminal proceedings, such as when bail is granted or revoked. As was briefly mentioned above, periodic suggestions along with repeated judicial involvement led the Parliament to enact the Code of Criminal Procedure (Amendment) Act, 2008.⁷

e) The right to reasonable protection against threats and violence

This law is designed to increase the physical safety of victim's and protect accuser or convicting persons from threatening, intimidating, or harmful them in the future. Various laws regarding the protectionism of victims are about to be created. The first, which will come into force, soon,

⁶“Victim Has the Right to Be Heard at Every Stage from Investigation to Culmination of Trial in Appeal/Revision”, available at: <https://lawansweronline.com/uncategorized/victim-has-the-right-to-be-heard-at-every-stage-from-investigation-to-culmination-of-tria> (last visited on Sept. 6, 2024).

⁷ “Victim Has the Right to Be Heard at Every Stage from Investigation to Culmination of Trial in Appeal/Revision”, available at: <https://lawansweronline.com/uncategorized/victim-has-the-right-to-be-heard-at-every-stage-from-investigation-to-culmination-of-tria> (last visited on Sept. 6, 2024).

provides information on the protection of victims in various ways.

The first is to provide the victim with information that will directly affect the victim's safety or, alternatively, to protect the information that may lead to the victim's safety. Second, addressing security concerns regarding the releasing of those accused or convicted of crimes, third, providing victims with protection judges, and finally developing policies and practiced to improved the safety of victim's while they are incarcerated.

f) Compensation Law

Compensation is the oldest right . The concept of giving back. The compensation law was one of the law's first right of the victim, nearly 50 years ago . Restitution is a public remedy available in criminal cases that attempts to bring as close as possible pre-crime activities. also helps prevent criminals from gaining unfair advantage.

The criminal acts are often thought to be and punishing the perpetrator is often referred to as "*paying a debt to society*". But actually it is the victim who suffers. The real problem stems from crime. - physical, emotional, spiritual and financial. Torture opponents and others argue that because torture victims are actually being persecuted, they should have the right to seek judicial determination of their interests and that protection should not preclude these rights. They want their pain to be healed, whether figurative or literal, and their responsibility to pay for it is to send the victim back to a place where they are uninjured. In general, compensation may be requested in the following cases: Crimes such as theft or damage to property, cost to victims and their families. Although the victim's right to compensation is not recognised in the law in India, this right is included in the provisions regarding victims' in the Penal .

g) Right to Inform

The right of to inform and referral, including the provisions to inform about victims' rights, the judicial review community, the community, and service's availability to assist victims after a crime.

h) speedy trial

Indian Penal Code prescribed a time limit within which the investigation agency can complete its investigation. If the investigation is not completed within the specific time ,the accused will be released. However, the court did not set dates for the completion of the hearing and this is one of the biggest concerns in the Indian police criminality justice system that is the inordinate delay in disposal of cases. Often, long delay leaves victims dissatisfied with the case.

i) Privacy

The victim's right to privacy guarantees at least two things. The first is contact information, and the second is to prevent leakage. These two rights are important to protect victims from further abuse, harassment and intimidation by perpetrators. The main purpose of confidentiality regarding the victim's contact information is respecting non-disclosure and stigmatisation of the victims by revealing the truth about the identity and details of the crime, especially sexual offences. In India, under the Indian Penal Code, very few sex-related cases are behind closed doors in the courts. The 2008 amendment to the Penal Code requires that rape trials be conducted secretly. The law also requires media outlets to keep victims confidential.

Crime research has always suffered from theoretical, methodological and methodological shortcomings. Early researchers approached the study vaguely and used simplistic instructions that to create a clear idea the victims. Instead, they address the issue of the victim's involvement in the crime. For this reason, the problems of victims and their perceptions of criminal justice have not received enough attention and no good research has been conducted but now with the reforms in the criminal laws , various provisions have been incorporated which are for the benefit of the victims where victims are to informed at every step of the proceedings and no proceeding are allowed to be withdrawn by the public prosecutor without consulting the victim which is a step forward in Indian criminal justice system thereby looking forward to more such victim-focused laws in the near future.

IV. CONCLUSION

In conclusion, the development of victims' rights' may be regarded as a great evolution toward a system that is less preoccupied with the offender and puts in more effort to balance the power within the justice system by facilitating the victims too. This shift means that victims are being increasingly treated as actors who have rights that must be heard and taken into consideration alongside any other for the delivery of justice. Such a shift in thinking has been accompanied by developments in the rights of victims in terms of the available information, involvement in activities, and advocating for their causes. However, there is further work to be done and these will require advocates, policymakers and the legal systems to ensuring that the existing improvements are maintained or expanded. As the rights of the victims are respected and the grievances of the societies are represented the justice system in return will guarantee that the parties are as fair to everyone as possible.
