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INTERRELATIONSHIP OF CRIMINOLOGY, PENOLOGY AND VICTIMOLOGY

Arvind Kumar Meshram

Student,
B.A.LL.B. 8th sem.: Indore Institute of Law(Affiliated to DAVV),
Indore,
Madhya Pradesh

ABSTRACT

Victims of crime are important players in criminal justice administration both as complainant/informant and as witnesses for the police/prosecution. Despite the criminal justice system being heavily dependent on the victim, it has however been more concerned with the offender and his interests almost subordinating or disregarding the interest of victim. In the civil law system generally the victims enjoyed a better status in administration of justice. Towards the last quarter of the twentieth century, the common law realized the adverse consequences arising from this inequitable situation and enacted laws giving rights of participation and compensation to the victims. In the Constitution of many countries, victims' rights have been recognized by making necessary changes in criminal justice procedures. Victim's participation in plea bargain negotiations has been shown to contain their vengeful instincts, decrease their assessment of the system being too lenient on criminals and inculcate feeling of fairness in the whole process. Increased victim satisfaction will in effect enhance the efficiency of the criminal justice system by ensuring his future support to the system.

INTRODUCTION

With regards to criminal equity framework there are casualties of wrongdoing and furthermore casualties of maltreatment of intensity. Nowadays, the investigation of criminal law would stay deficient without thinking about the conditions and circumstance of the person in question. The unfortunate casualty is one of the focal figures in the criminal procedure that merits the consideration of the general public. The criminal equity framework, without the participation of the casualty of wrongdoing and casualties of maltreatment of intensity can't work. The unfortunate casualty has due worries in the organization of criminal equity. Unfortunate casualty advances objection to able expert and sets the criminal law into movement. During preliminary he gives important proof to the court and is chief observer. "Witnesses" as Bentham said "are the eyes and ears of equity". On the off chance that the person in question/witness is weakened from going about as the eyes and ears of equity, the preliminary gets incapacitated and can't be called as a reasonable preliminary. Generally endeavors are being made by the States by and large and autonomously to improve the job of the exploited people in the criminal equity framework. Real changes have been made in the criminal methods to progress different rights to such casualties of wrongdoing. The association of the casualties of wrongdoing is required for revealing of wrongdoing, examination of the case, preliminary of denounced, deciding the condemning and even in outcome of the condemning for example reclamation and restoration of injured individual and furthermore the convict. Various examinations have demonstrated that while a few unfortunate casualties may lean toward not to report the wrongdoing, or set the criminal law in movement for some undeniable reasons, there are other people who effectively take an interest in the criminal procedures against the wrongdoer. Universally it is felt that there is a need to give exploited people their participatory rights to verify equity, compensation and recovery. Numerous nations have guaranteed to explicitly accord participatory rights to the casualties of wrongdoing.¹

VICTIMOLOGY – MEANING AND CONCEPT

The word "victimology" has been derived from a Latin word *Victima* and a Greek word *Logos* which means science of victims. The term was developed by a French lawyer in the middle of twentieth century². It is basically a study of crime from the point of view of

victims suffering from physical injury or economic loss. Defining Victimology Marvin E. Wolfgang stated that victimology is the scientific study of the victims and process of etiology and consequences of victimisation. Victimology is relatively a new study in the field of criminal law. Victimology is concerned with the role of victims in the criminal justice system, their rights and deals with protecting their dignity and human values. Victimology is an academic scientific discipline which studies data that describes phenomena and causal relationships related to victimizations. This includes events leading to the victimization, the victim's experience, its aftermath and the actions taken by society in response to these victimizations. Therefore, victimology includes the study of the precursors, vulnerabilities, events, impacts, recoveries, and responses by people, organizations and cultures related to victimizations³. Victimology is the thorough study and analysis of victim characteristics and may also be called as 'victim profiling'. The reason why victimology is important is that the victim constitutes roughly half of the criminal offence and as such, is as much part of the crime as the crime scene, weapons and eye witnesses. This is especially true when we are presented with a live victim and may be able to provide the best behavioural and physical description of the offender⁴. Victimology helps in gaining knowledge of consequences, impact of crime on victims of crime. Getting full and adequate information pertaining to various needs of victims is the foremost requirement for providing an effective criminal justice system.

INTERRELATIONSHIP OF CRIMINOLOGY, PENOLOGY AND VICTIMOLOGY

The concept of crime is not new it is rather quite old. We can say crime existed right from the start of mankind. The old societies were having certain traditions and rules which were followed by the communities. 'A tooth for tooth and an eye for an eye', the theory of retribution/retaliation/vengeance etc. was present in some of the primitive societies. Miller says that a crime is the commission or omission of an act which the law forbids or commands under the pain of punishment by the State by the proceedings under its own name.

¹ Robert C. Davis et al., *Victims of Crime*, Sage Publications, U.S.A, 2007, p. 278.

² The term Victimology was developed by Benjamin Mendelson.

³ John P. J. Dussich, Associate Professor, Criminology Department, California State University, Fresno and Director, Tokiwa International Victimology Institute, Tokiwa University Victimology Graduate School, Japan, "131st International Senior Seminar Visiting Experts' Papers", Resource Material Series no. 70, available at: www.unafei.or.jp

⁴ Prakash Talwar, *Victimology*, Isha Books Publishers, New Delhi, (2006), p. 1.

Law, according to Austin is the command of the sovereign. So a wrong which is pursued by the sovereign or his subordinates is a crime.⁵ Kenny says that crimes are wrongs whose sanction is punitive and in no way remissible by a private person; but is remissible by crown alone, if remissible at all.⁶

In the traditional societies, private vengeance rule was there in which the burden of protection against crimes and of punishing the offenders rested with the individuals against whom the offence had been committed. It was only after the societies got organized that crime was taken as an act against the society as a whole and against the State as particular. Now, it is the society and State which is considered to be the proper authority to bring the culprit to book.

In medieval period human thinking was dominated by religious mysticism and human relations were controlled and regulated through myths, superstitions and religious beliefs. Little attention was given to motive, environment, psychology of the offender in the causation of crimes and relatively less concern was shown towards the victims of crime and abuse of power. This situation prevailed till the end of seventeenth century. Thereafter, with the change of human thinking, the concept of crime was altogether changed as more reference was started to be given to the real crime causations and providing proper attention towards the victims of crime and abuse of power⁷. Thus finally it paved the way for a new branch of knowledge that today is known as victimology.

HISTORICAL DEVELOPMENTS IN VICTIMOLOGY

The European countries suffered countless hardships in the shape of deaths and loss to property during Second World War. After the end of war some eminent scholars started exploring the concept of victimology as an independent study other than criminology. The scientific and technical research pertaining to victimology can be traced back to 1950. Till then the criminologists were focusing their attention towards the wrong doers and crimes itself. Then the criminologist shifted their focus towards the victims of crime and abuse of power. People like Mendelson and Von Hentig, started the research in that direction and began to study the victims of crime.⁸ In

⁵ Lectures on Jurisprudence, XXVII

⁶ Kenny, *Outlines of Criminal Law*, The Macmillan Company, New York, 1907.

⁷ N.V. Paranjape, *Criminology and Penology with Victimology*, Central Law Publications, Allahabad, 2012, pp. 40-48.

⁸ K.B. Agrawal (Prof.) and R.K. Raizada, (Prof.), *Modern Thoughts on Victimology and Crimes*, A Comparative Study, University Book House Pvt. Ltd., Jaipur, 1997, p. 1.

1960s movements pertaining to victim compensation and rehabilitation started across the globe. In Europe, the Convention on the Compensation of Victims of Violent Crimes, 1983 incorporated the essential rights of victims. The Council of Europe recommended changes and modifications in criminal justice by incorporating victim's rights in every stage of criminal proceedings. Following this recommendation, many countries enacted laws aimed at providing increased participation of the victims of crime in the criminal justice process.

The history of crime is very old and crime existed since time immemorial. According to some philosophers Civilization is supposed to have come into existence from that very day when man started thinking that he is naked. It is from then that the concept of crime has evolved. The earlier societies had some rituals and customs which were followed by all members of the respective society. 'A tooth for tooth and an eye for an eye', the theory of retribution or retaliation or vengeance etc. was present in old days.

In ancient times, the Babylonian Code of Hammurabi (more than four thousand years old) is often taken as the first legal Code that provides even compensation to the victims. The position of victim was that the victim was given priority over the offender. Each crime included different modes of restitution. Like if a theft of goods in transit was committed then the restitution was five times more than the amount of goods, like wise if criminal breach of trust was committed by an employee he was bound to make restitution three times more than the amount. There were also provisions, that if the thief was not traced or identified, then the State has to pay the amount of restitution if the victim had itemized his property in the presence of God⁹. (The legal document also provides that if the brigand has not been taken, the man plundered shall claim before God what he has lost; and the city and sheriff in whose land and boundary the theft has taken place shall restore to him all that he has lost). The Code of Hammurabi also provided that if a man has committed robbery and is caught then the punishment of death is to be given. But if he is not caught then the city mayor shall replace whatever the man who was robbed had lost provided the robbed man declare what he lost in the presence of God. And if in the process of robbery the death has been caused then the city mayor to provide one munch of silver to his heirs.

During the eleventh century, the victim had a key position in common law and was responsible for the apprehension, charge and prosecution of offenders.

⁹ Sir Henry, S. Maine, *Ancient Law*, Oxford Library Press, 1946.

This system was known as private prosecution and the victims controlled every aspect of judicial process including punishment (Kirchengast, 2006). This was referred as the golden age of the victims as they exercised their rights and played major role in the criminal justice process. The Saxons and the Germans introduced the use of wergild, which means that they renounced a vendetta after a murder or serious bodily injury, provided that the offender compensated the victim or his family (Schaffer, 1968; Alline, 2001). The agreement between the offender and victim or his clan put an end to any further violence. But 13th century witnesses the decline of the victim's role and rights. There were thoughts that the crime was primarily against the society rather than an individual. So aftermath the commission of crime the payment of compensation was to be paid by the offender rather than by the State. From the 17th Century onwards, parliamentary sovereignty grew and the king becomes less influential personally. Instead he was seen as a figure of sovereignty. Laws were passed by legislature and were no longer passed by a king alone¹⁰.

NATIONAL AND INTERNATIONAL DEVELOPMENTS IN VICTIMOLOGY

During the previous thirty years endeavors have been made to start unfortunate casualty direction plots by the Western nations for restoration, assurance and budgetary help to the casualties of wrongdoing and to forestall maltreatment of intensity. Recently, long after the Second World War because of the exercises of certain dynamic scholars and activists in different propelled nations, similar to the U.K., Canada, U.S.A., Australia and New-Zealand, the center has possibly moved towards the heartbreaking unfortunate casualty, who for the most part is the most influenced gathering in the wrongdoing and furthermore the gathering who normally merits change. Just to take a model: Canada-Manitoba established the Justice for the Victims of Crime Act, 1986. New-Zealand additionally ordered the Victims of Offenses Act, 1987. In U.K., the Criminal Justice Act, 1988 has made new arrangements for installment of pay by the Criminal Injuries Compensation Board. In U.S.A., the Victims of Crime Act, 1984 is made piece of the government law. The United Nations General Assembly on 29th November, 1985 made a Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power embracing national and universal points of view relating to the privileges of casualties of wrongdoing and casualties of maltreatment of intensity. It was likewise pronounced that guilty parties

or outsiders in charge of their conduct should, where suitable, make reasonable compensation to unfortunate casualties, their families or wards. This Declaration has been depicted as 'Magna Carta' of privileges of exploited people's around the world.

Different global records like the International Bill of Human Rights (that incorporates Universal Declaration of Human Rights (UDHR) 1948, the International Covenant on Civil and Political Rights, 1966, the International Covenant on Economic Social and Cultural Rights, 1966) the International Convention on the Elimination of All Forms of Racial Discrimination, 1963, the Convention on the Rights of the Child, 1989, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power received by United Nations Assembly (1985) and so on accommodates different rights to defenseless gatherings just as people.

The Declaration of 1985 characterizes the injured individual independent of the status of the guilty party. An injured individual is an unfortunate casualty independent of the status of the culprit of a wrongdoing. The said record of 1985 was created by the Commission on Crime Prevention and Criminal Justice of the United Nations.

In India as of late different improvements are seen in the criminal equity framework like Fair Trial, Speedy Justice, Public Interest Litigation, Plea Bargaining, Witness insurance, Free Legal Aid, Judicial Activism and so on talking about decency in the Criminal Justice Process. Most piece of the Indian Criminal Law was arranged by the Britishers during provincial principle by establishing three noteworthy criminal law rules viz: the Indian Evidence Act, 1872, the Indian Penal Code, 1860, the Codes of Criminal Procedure, 1861, 1872, 1882 and 1898 (presently the Code of Criminal Procedure, 1973). These laws are changed every now and then to address the difficulties. There are additionally special and 20 Local laws which manage different issues relating to exploited people for instance: The Immoral Traffic (Prevention) Act, 1956, the Dowry Prohibition Act, 1961, the Indecent Representation of Women (Prohibition) Act, 1986, The Commission of Sati Prevention Act, 1987, the Protection of Women from Domestic Violence Act, 2005). The Constitution of India, 1950 ensures certain essential rights to residents that are enforceable by the legal executive. As of late the Criminal Law (Amendment) Act, 2013 has included reformatory and procedural arrangements keeping in view the need to ensure the people in question.

RIGHTS OF VICTIMS

The casualty of wrongdoing is a source to hold up FIR. A casualty of wrongdoing after the commission of an offense has the decision either to

¹⁰ G.S. Bajpai, Criminal Justice System Reconsidered, Victim & Witness Perspectives, Serial Publications, New Delhi, 2012, pp. 2-3.

hold up First Information Report with the police in regards to the cognizable offense or approach the court through a grievance. At some point unfortunate casualty is reluctant to go to the police due to the unconcerned conduct of the cops right off the bat in chronicle the FIR and afterward during examination. It is simply after a FIR is held up that examination for the situation can be started. Be that as it may, police evades the account of FIR which further disturbs the anguish of the person in question. The training to confirm any data before account FIR is against the statutory arrangements of law. The guideline worry of cabin a FIR is to gotten the criminal law under way and to make appropriate strides by the police for the examination of the case and to carry the wrongdoer to book. The police are compelled by a solemn obligation to hold the examination of a cognizable offense without getting a request from the court. It is the criminal law necessity that FIR must be recorded on account of cognizable offense. Anyway after finish of the examination the cop is enabled to present the examination or police report to the Magistrate in the state of charge sheet, disappointment report or crossing out report by and large. The casualty of wrongdoing has a privilege to be analyzed as an arraignment witness. At that point injured individual ousts as an indictment observer against the charged during the preliminary. In the present criminal equity framework, offenses recorded by the police are treated as offenses not just against an individual rather against the foundation of the State/Society itself, which after examination by the police go to the court through indictment organization with the end goal of the preliminary. During the preliminary of the case the unfortunate casualty is inspected as an observer under the steady gaze of the court.

CONCLUSION

In a criminal equity framework, casualties of wrongdoing have different rights like appropriate to hold up a grumbling, ideal to expedient equity, ideal to be heard, ideal to reasonable preliminary, ideal to get data, ideal to be available in the court at hearing, ideal to insurance against reprisal, ideal to address the court, ideal to counsel authorities, interviewing observers, ideal to create proof to support him, ideal to in camera procedures during request and preliminary of specific cases like assault, aggressive behavior at home, right in regards to keeping up of secrecy of name and address in indictment of assault cases, ideal to incline toward an intrigue against any request gone by the court clearing the charged or sentencing for a lesser offense or forcing lacking remuneration, right not to be posed disgusting inquiries as to past corrupt character in assault cases and so on. There is incorporation of new Chapter XXI an on supplication bartering which

likewise bears complainant/unfortunate casualty to be a piece of commonly acceptable manner. Essentially certain rights are allowed for the insurance of exploited people like the personality of the unfortunate casualty to be kept classified, preliminary of specific offenses must be to the prohibition of overall population, recording of the announcements of unfortunate casualties, utilization of screen recording of the announcement through video conferencing, interrogation through Judge, change in the setting of preliminary, physical security to the casualty of wrongdoing and so forth.

REFERENCES

1. Robert C. Davis et al., *Victims of Crime*, Sage Publications, U.S.A, 2007, p. 278.
2. *The term Victimology was developed by Benjamin Mendelson.*
3. John P. J. Dussich, Associate Professor, Criminology Department, California State University, Fresno and Director, Tokiwa International Victimology Institute, Tokiwa University Victimology Graduate School, Japan, "131st International Senior Seminar Visiting Experts' Papers", Resource Material Series no. 70, available at: www.unafei.or.jp
4. Prakash Talwar, *Victimology*, Isha Books Publishers, New Delhi, (2006), p. 1. *Lectures on Jurisprudence, XXVII*
5. Kenny, *Outlines of Criminal Law*, The Macmillan Company, New York, 1907.
6. N.V. Paranjape, *Criminology and Penology with Victimology*, Central Law Publications, Allahabad, 2012, pp. 40-48.
7. G.S. Bajpai, *Criminal Justice System Reconsidered, Victim & Witness Perspectives*, Serial Publications, New Delhi, 2012, pp. 2-3.