



## TRANSFORMING VICTIM'S CRITERIA AND THE CRIMINAL JUSTICE SYSTEM IN INDIA

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### ABSTRACT

“While studying the biological, sociological, psychological and criminological details about the victim- victimology brings into focus the victim-offender relationship and role played by victim.” By- **E.A.Fattah.**

The present research paper attempts to understand the presentation of crime into various spheres in 21<sup>st</sup> century. There has been considerable increment in crime rate with the economic growth due to individual's greed for wealth and other luxuries of life, people resort to unlawful means to satisfy other wants and desires, thereby end up in committing crime. The objective behind this research is to have deep understanding of victimology. It also focuses upon various types of crime due to injury caused to a person or property, victim of environmental offences and victim of abuse of power. The UN General Assembly has given the declaration of 'basic principles of justice for victims and abuse of power'. It is an attempt to understand that the victims need legal aid and the dual role of judiciary is not only to punish the guilty but also to compensate the victim. The key concepts in victimology are theoretically defined the problems inherent in eradicating the abuse of power are discussed in the paper. The author in depth tries to understand various dimensions of crime categorized as: legal,

political, social, cyber and miscellaneous. There are two sides of coin, one is where we are trying to reduce the crime rate and on other we are separating the victims from society by not giving them their rights. Therefore, victimological approach towards crime is necessary as it is the rights of victim to have assistance, restitution, compensation and access to justice and fair treatment.

**Key words:** -Abuse of power, Compensation, Criminal Justice, Victimology.

### INTRODUCTION

Most forms of violence are not unique incidents but are ongoing, and continuing from decades, because of the sensitivity of the subject, but crimes are not reported absolutely. The research paper covers the entire area of criminal justice system including the scenario of 21<sup>st</sup> century. The collection spans a broad range of research topics, including: criminology and victimology which affects i.e. women, child, elderly and men too, including various crimes which affects the victim i.e. injury caused to person and property, victim of environmental offences, abuse of power. Generally, the ways of committing crimes are common across the world but their punishment depends upon the rules and laws which differ from country to country. And accordingly the victims of crime also get protected and compensated. This paper is an attempt to understand the attitude of Indian society and criminal justice system of India towards the victim and is supported by various statistics which is carried out between 2013 December to 2017December. And also some famous cases and landmark



judgments which shows the ways how justice has been provided to victims of crime in India. The objective behind this paper is to develop the victim logical approach towards crime, in order to understand their (victim)prospective.

**For Example-** If A has murdered B and B's wife has filed a suit against A. And the court has also provided the punishment to the guilty according to the penal code but what about B's wife? Don't you think she is also a victim? And is justice has been done in terms of that victim? All these are the question which needs to be answered.

The authors of the paper has also suggested some ways and basic rights of the victims that needs to be implemented in order to give them justice and fair treatment.

### CRIMES

#### **What is a crime?**

Crime is an action or omission which constitutes an offence and is punishable by law i.e. it is any act, which breaks the law or fails to obey some requirement of the law. Crimes are of various types; sometimes petty misconduct may also cause a crime. i.e., anyone who smokes in a bus or breaks a traffic regulation is guilty of committing a crime. These minor crimes are called misdemeanours.

But in Indian Penal Code 1860 uses the word "offence" in place of 'crime'. Section 40 of IPC 1860 defines offence i.e. an act punishable by the code.

### INCREMENT IN CRIME RATE- 21<sup>st</sup> CENTURY SCENARIO

India is one of the most progressive nations in terms of knowledge and availability of resources. But unfortunately the nation is also known for its tremendous increase in crime rate. As, in this technological era people are using new ways of committing crime like cyber crime, enmity between groups, offences against state, counterfeiting etc And the affected victims are more than the crime rate. Because, when a crime happen with a particular individual it affects the society also, either directly or indirectly.

According to **National Crime Record Bureau (NCRB)**, the crime rate in India is increasing rapidly. There could be variety of reasons behind the growth of crime in India. And the most Common reason is the individual's greed for wealth and other luxuries of life, due to which People resort to unlawful means to satisfy their wants and desires, thereby end up in committing crime.

In 2015, as per **NRCB report** Uttar Pradesh records most crimes than any other state in India. And Kerala and Tamil Nadu were 2<sup>nd</sup> and 3<sup>rd</sup> respectively in crime recorded. On the other hand Bihar and Jharkhand reported as lower crime rated states.<sup>1</sup>

Apart from this, the other way to analyse the increment in crime rate is by positioning the Concern towards the victim who is the ultimate sufferers of harm which include physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights.

<sup>1</sup>Abhishek Waghmare, *In 2015, Crime In India At 11-Year High*, INDIA SPEND (Sept. 1,2016), <http://archive.indiaspend.com/cover-story/in-2015-crime-in-india-at-11-year-high-78461>.



## UNDERSTANDING VICTIM JURISPRUDENCE

Victim Jurisprudence also called as Compensatory Jurisprudence because it's a recognised principle of law to provide compensation to victims. But to understand this term first we need to understand who victims are?

The **UN Convention on Justice and Support for victims of Crime and Abuse of Power** defines the victims in Article 1 sub clause 1 as-

Victims means and includes all those persons who either individually or collectively suffer harm in terms of physical or mental injury, emotional suffering, economic loss, or substantial impairment of fundamental rights, through acts and omission, that are in violation of criminal laws, it include all those laws which prescribing the criminal abuse of power.

Jurisprudence is derived from Latin word "Jurisprudentia" which means "Knowledge of Law". It brings improvement in the application of law. Because it serves the complexity of law in more rational and manageable approach. It is considered as the logical analysis of concepts which sharpens the logical techniques of a lawyer as it throws light on the fundamental principles of law.

Victim Jurisprudence is a wide term to interpret its application but in India compensation to victims is recognised as principle of law being enforced through the ordinary civil courts. In **Nilabati Behera v. State of Orissa**<sup>2</sup>, it is a landmark case which

provides that the jurisprudential reasoning behind the award of damages in cases of violation of fundamental rights was elucidated in, which can truly be considered. The concept of Victim Jurisprudence has been evolved on the basis of Supreme Court's analyses on the fact that the constitutional rights of a person are invaded and that cannot be taken away merely by the restoration of rights. So while invoking Article 32 of the Constitution the Supreme Court provided two types of monetary reliefs namely compensation and exemplary costs, by introducing compensatory jurisprudence under Article 32. After this, many landmark cases brings the compensation scheme in India. In **M.C. Mehta v. Kamal Nath**<sup>3</sup>, the Supreme Court awarded compensation to the victims of environment pollution. Some damages have been appropriated under it-

- Damages for restoration of the environment and ecology;
- Damages to those victims who may have suffered loss on account of the act of pollution;
- Exemplary damages are provided to those who are detained from causing environmental pollution.

But it totally depend on the interest of the courts whether to provide compensation to victims or not. By this we can say that the right to compensation of victims remains rudimentary to the justice delivery mechanism to victims of crimes and abuse of power. According to penologist and criminologists, compensatory justice is to be rehabilitative and restorative in nature and

<sup>2</sup> Smt. Nilabati Behera v. State of Orissa, (1993)S.C.R (2)581(India).

<sup>3</sup> M. C. Mehta v. Kamal Nath, (1997) 1 S.C.C 388 (India).



its tendency. They said that the right of victims to get compensation is praise-worthy and elucidates the intellectual-legal-logical calisthenics of the doctrine of the rule of law with the changing modalities of management.

## VICTIMOLOGY

**Justice J.N Bhatt** has defined victimology. “It is a science of suffering and resultant compensation”.

Victimology is the scientific study of victimization which includes the relationship between victim and the accuse.

### **The dictionary meaning of victimology is:-**

The study of the victims of crime and psychological effect on them of their experience.

The possession of an outlook, arising from real or imagined victimization that seems to glorify or indulged the state of being a victim. As it is mentioned in the meaning itself that it is psychology of the victim but it directly related to the behaviour of the offender or the accuse.

### **Theories of victimology:-**

Victimology gives us the idea to understand that why some people are more prone than others in becoming victim.

There are 4 types of theories of victimology.

- **Victim precipitation theory:-**

According to victim precipitation theory, some people are risk takers and may actually initiate the confrontation that eventually leads to injury or death and became a victim of it, because in our society risk takers are

not appreciated. People infact always try to put them down.

- **Lifestyle theory:-**

According to lifestyle theory, some people believe that the victim increases because there lifestyle increases their exposure to criminal offenders. Actually this theory is completely focusing upon women and modernization, but this is not so, because today also India is typically male dominating country and women as sufferers of crime.

- **Deviant place theory:-**

According to this theory, the more often victims visit dangerous places, the more likely they will be exposed to crime and violence. As per this, victims do not encourage the crime, but are victim prone because they are residing in socially disorganized high-crime areas where they have the greatest risk of come in contact with criminal offenders, irrespective of their own behaviour or lifestyle.<sup>4</sup>

- **Routine activities theory:-**

This theory is a sub field of crime opportunity theory that focuses upon situations of crime The premise of routine activity theory is that crime is relatively unaffected by social causes such as poverty, inequality, and unemployment. So after this introduction of theory, we can assume that, there is no specific reason for committing crime, all these crimes look easy but makes big difference. And so far, without any reason people are sufferers of these crimes.

<sup>4</sup> Rod Hollier, *Victimology: Four Major Theories*, THE LAW PROJECT (Sept. 16, 2016), <https://www.google.co.in/amp/www.thelawproject.com.au/blog/victimology-four-majortheories%3fformat=amp>.



### **Purpose of Victimology in India:**

The purpose of study of victimology is:

- To enhance our understanding regarding victims and impact of crime upon them.
- To observe the magnitude of the victim's problem
- To explain causes of victimization
- To develop a system of measures which helps to reduce victimization.<sup>5</sup>

### **CRIMINAL JUSTICE SYSTEM IN INDIA**

The Criminal Justice System of India has recognised the principle of victim compensation. And therefore having various sections under Code of Criminal Procedure, 1973 regarding compensation to victims.

Section 250 authorized the magistrates to direct complaints or informants to pay compensation to people accused by them without reasonable cause.

Section 358 empowers the court to order a person to pay compensation to another person because such person has been wrongfully arrested by the police.

Section 357 it provides that the court has power to imposed a sentence in a criminal proceeding, to grant compensation to the victim and order the payment of cost of the prosecution. However, this is on the discretion of the sentencing court and is to be paid out of the fine recovered.

### **Committee on Reforms of Criminal Justice System- In favour of victims.**

On 24<sup>th</sup> November, 2000 the Ministry of Home Affairs by its order situated the Committee of Reforms of Criminal Justice System. The main objective of this committee was "to suggest ways and means of developing synergy among the judiciary, the prosecution and the police to restore the confidence of the common man in the criminal justice system by protecting the victim and punishing unsparingly the guilty and the criminal". The Government of India, in 2003 observed that the victims do not get the present legal rights and protection which they deserve, and now victims are just playing their role in criminal proceedings and criminal justice administration. In the case, Chairman **Railway Board v. Chandrima Das**<sup>6</sup> the substantial monetary compensation have been awarded against the instrumentalities of the state. After this case, the Committee Reforms has taken the guidelines from UK Report from 2001 and made the following recommendations:

- If the victim is dead, his legal representatives shall have the right to be impleaded as a party in every criminal proceedings where the charge is punishable with 7 yrs. Imprisonment or more.
- With the permission of the court an approved voluntarily organizational shall also have the right to implead in the court proceedings, in the selected cases notified by the appropriate government.
- The victim has a right to be represented by an advocate of his/her choice and is provided at the

<sup>5</sup> Gurratan Wander & Hardimrat Kaur, *Victimology and Emerging Trends of Compensation*, Mar. 2015.

<sup>6</sup> The Chairman Railway Board v. Chandrima Das, (2000) Cr.LJ. 1473S.C.(India).



cost of the State if the victim is not in a position to afford him.

- The victim has a right to participate in a criminal trial.
- The victim have right to appeal against any adverse order passed by the court acquitting the accused, convicting for a lesser offence, imposing inadequate sentence, or granting inadequate compensation.
- It also has a provision for the extension of legal services to victims in selecting crimes to include psychiatric and medical help, interim compensation and protection against secondary victimization.
- The victim compensation law provide for the creation of a victim compensation fund to be administered possibly by the Legal Service Authority. The law should provide for the sale of compensation in different offences for the guidance of the Court.

This provides the current status of victims of crime in India. But here the court generally uses the word compensation in terms of 'restitution'. The first landmark judgment where compensation to the victim ordered by the Madras High Court and upheld some modification done by the Supreme Court of India in the case **Palaniappa Gounder v. State of Tamilnadu**<sup>7</sup>, the High Court after communicating the sentence of death on the accused to one of life imprisonment imposed a fine of Rs.20,000, and directed out of this 15,000Rs. Should be given to the son and

<sup>7</sup> Palaniaapa Founder v. State of Tamil Nadu, A.I.R. 1977 S.C. 1323 (India).

daughter of the deceased under section 357(1)(c) of Code of Criminal Procedure, 1973. But the Supreme Court observed that "the first concern of the court after recording an order of conviction ought to determine the proper sentence to pass. The sentence must be proportionate to the nature of the offence and the sentence including sentence of fine must not be unduly excessive." The Supreme Court thus reduced the fine amount from Rs.20,000 to 3,000 Rs. And directed to pay the amount to the son and daughter of the deceased who had filed the petition in High Court. So, here the Supreme Court has reduced the amount of fine and achieved a proper blending of offender rehabilitation and victim compensation. In the case **Mangilal v. State of Madhya Pradesh**<sup>8</sup>, the court held that the power of the court to award compensation to the victims under Section 357 is not ancillary to other sentences but in addition thereto. Also, observed that the imposition of fine is the basic and essential requirement, while in the latter even the absence thereof empowers the court to direct payment of compensation. This power is available to be exercised by an appellate court.

By this, we can make a conclusion that the Criminal Justice System in India, have started realizing the importance of victims and their basic need in terms of Justice of Compensation or Restitution. But the problem is that victims are not aware about their rights and do not even claim for it. Even the victims has not been notified about the court proceedings the arrest or release of the defendants. And the compensation which the victim gets is insufficient as well as

<sup>8</sup> Mangilal v. State of Madhya Pradesh, A.I.R. 2004 S.C. 1280 (India).



unreasonable. In the case of **Bhopal Gas Tragedy**<sup>9</sup>, the Supreme Court provided compensation calculated on the basis of higher number of victims. And the company Union Carbide Corporation made a settlement of US \$470million (Rs 750 Crore). The government has asked for Rs. 7,413 crore and the settlement was based on the fact that the victims are in the figure of 3,000 death and 70,000 injured but the real figures calculated are more than 5,295 deaths and 5,27,894 injured So, the actual figured is higher than the quoted one in petition. And the injury of victims is not temporary; thousands of people are still suffering from its aftermath. This means that there is need to awareness and enforcement of the rights to the victims effectively, by both the society and the Courts.

#### **VARIOUS CRIMES WHICH ARE AFFECTING THE VICTIMS ARE:-**

- Injury caused to person or property.
- Victim of environmental crimes.
- Victim of Abuse of Power.

#### **1. Injury Caused to a Person or Property.**

There are various crimes which define under the Indian Penal Code, 1860 which affect the Victims like chapter 16 of it deals with the offences like murder, grievous hurt, dowry death, sexual offences, etc. And chapter 17 of Offences against the property include theft, extortion, robbery, cheating, Mischief, etc.

So, there are various crimes which affect the victims, the above mentioned chapters

<sup>9</sup> Union Carbide Corporation v. Union of India, (1989) S.C.C. (2) 540 (India)

covered the crimes which affect the victim's life or property. According to the State Compensation to Victims of Crime (Consolidation) Act No. 688 of June 2004.<sup>10</sup>

**Part 1** of it deals with the victims suffering from personal injury. The state award Compensation and damages for personal injury inflicted by violation of the Criminal Code where any such violation is committed within Danish territory. This also applies to acts where the personal injury that occurs in connection with assistance to the police during arrestor prevention of criminal offences. If the victim dies, compensation is awarded under sections 12 to 14 and section 26 of the Liability in Damages Act.

**Part 2** deals with offences affecting the property of victims. The state award compensation For property damage caused by violation of the Criminal Code within Danish territory where such violation is committed by persons affecting victim. But no compensation is awarded to public authorities or institutions. In the case of **Guruswamy v. State of Tamil Nadu**<sup>11</sup>, 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, the extreme penalty was not called for. The accused had also been under

<sup>10</sup> Anne Kristine Axelsson, *State Compensation to Victims of Crime(Consolidation) Act No.688*, MINISTRY OF JUSTICE (June28, 2004), en\_lovtekst\_engelsk.pdf.

<sup>11</sup> Guruswamy v. State of Tamil Nadu, A.I.R. 1979S.C. 1177(India).



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 the 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 order the same to be paid As compensation to the defendants of the victim.

Now, as per the statistics, the total number of cases reported under IPC in year 2015 is 6, 25,279 as compare to 6,00,861 during 2014. As crime affecting property is increasing continuously Same is the case with crime affecting life of victims, the total number of cases reported under IPC in year 2015 is 8,57,995 as compared to the cases reported in year 2014 is 8,13,745. The crime in India is rising day by day especially its increment is traced against women, child and weaker sections of society.

## 2. Victim of Environmental Crimes:-

Any Illegal act which directly harms the environment is called as Environmental Crime. There are various crimes with respect to environment. It is a violation of environmental laws that are put into place to protect the environment. Such crime referred to as crime against the environment. Although all illegal acts in violation of environment legislation are environmental crimes.

According to data released by the National Crime Records Bureau (NCRB), the number of green crimes in 2015 came down to 5,156 from 5,835 in 2014. Rajasthan has contributed in large measures to the decrease with the number of green violations coming

down substantially from 2,927 in 2014 to 2,074 last year. However, despite the improvement, the state still reported the highest number of such violations in the country. According to the analysis of the NCRB data, they showed that nearly 77% of the crimes were related to violations of the Indian Forest Act where the offenders were illegally cutting the trees in forest areas, encroaching upon forest land and moving forest produce without required permission.<sup>12</sup>

As per Indian Constitution The 42<sup>nd</sup> Amendment added Article 48A and 51A(g) which comes under the DPSP and Fundamental duties respectively.

**Article 48A** provides that it is the duty of the state to protect and improve the environment and also to safeguard the forest and wildlife of our country.

**Article 51A (g)** states that “imposes a duty upon every citizen of India to protect and improve the natural environment and confers right to come before the court for appropriate relief.”<sup>13</sup>

The SC of India in **Sachidanand Pandey v. State of West Bengal**<sup>14</sup>, this case stated that

<sup>12</sup> R. K. Puram, *Crime in India 2015 Statistics*, NATIONAL CRIME RECORDS BUREAU MINISTRY OF HOME AFFAIRS (Aug. 30, 2016), <http://www.indiaenvironmentportal.org.in/content/434920/crime-in-india-2015-statistics/>.

<sup>13</sup> Sachin Vats, *Ten Most Important Environment Law judgements In India*, IPLEADERS (General), <https://www.google.co.in/amp/s/blog.ipleaders.in/environment-law-judgment/amp/>

<sup>14</sup> Sachidanand Pandey v. State of West Bengal, A.I.R. 1987 S.C. 1109 (India).



the court is bound to bear in mind the above said articles whenever a case related to environmental problem is brought to the court.

The SC India in **Damodar Rao v.S.O Municipal Corporation**<sup>15</sup>, case it was held that the environmental pollution and spoliation which is slowly poisoning and polluting the atmosphere should also be regarded as amounting to violation of Article 21 of the Indian Constitution.

Various writ petition has been filed by the activist advocate M.C. Mehta in the Supreme Court highlighting environmental pollution, one of which is the pollution of the Ganga river by the hazardous industries located on its banks. A historic judgment is given by Justice ES Venkataramiah in “**M.C. Mehta vs. Union of India**”<sup>16</sup>, ordering the closure of a number of polluting tanneries near Kanpur. It was observed that if an industry which cannot pay minimum wages to its workers cannot be permitted to exist, and a tannery which cannot setup a primary treatment plant cannot be allowed to continue to be in existence.

### According to recent reports,

Victims from air pollution crimes are:- A recent report published in Lancet, a noted medical journal, has said that indoor air pollution caused 1.24 lakh premature deaths in India.

Air Pollution Caused 6% Of Total Disease Burden In India In 2016: Lancet: the lancet report said that disease burden due to air pollution remained high in India between 1990 and 2016, as it caused cardiovascular and respiratory disease and infections.<sup>17</sup>In the case of The Apex Court in **M.C. Mehta vs. Union of India** known as Trapezium Case delivered its historic judgment in 1996 giving various directions including banning the use of coal and cake and directing the industries to Compressed Natural Gas (CNG).<sup>18</sup>

### 3. Victim of abuse of power

“I believe the root of all evil is abuse of power.” – **By Patricia Cornwell.**

Abuse of power is a terminology which covers a wide area. It can be called as an act of using one’s position of power in an abusive way, such as taking advantage of someone, gaining access to such information which should not be accessible to the public, or just manipulating someone with the ability to punish them if they don’t comply.

The UN General Assembly has given the declaration of ‘basic principles of justice for victims and abuse of power which are:

- “Victims” means those person who individually or collectively, suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their

<sup>17</sup> Press Trust of India, *Air Pollution Caused 6% of Total Disease Burden in India in 2016: Lancet*, NDTV (Nov. 15, 2017, 06:46 a.m.), <https://www.google.co.in/amp/s/www.ndtv.com/india-news/air-pollution-caused-6-of-total-disease-burden-in-india-in-2016-lancet-1775511%3famp=1&akamai-rum=off>.

<sup>18</sup> M. C. Mehta v. Union of India, A.I.R. 1987 S.C.R. (1) 819 (India).

<sup>15</sup> Damodar Rao v. S.O. Municipal Corporation, A.I.R. 1987 A.P. 171 (India).

<sup>16</sup> M.C. Mehta v. Union of India, A.I.R. 1988S.C.R.(2) 530(India).



fundamental right, through acts or omission which do not constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

- States should consider incorporating into the national laws norms prescribing abuses of power and providing remedies to victims. And such remedies particularly include restitution, or compensation, and necessary material, medical, psychological and social assistance and support.
- States should consider negotiating multilateral international treaties relating to victims as defined in 1<sup>st</sup> paragraph.
- It's the duty of State to periodically review the existing legislation and practices for the purpose of changing circumstances, and if necessary, than to prescribe and promote the policies and mechanism for the prevention of such acts, and State should provide appropriate rights and remedies to such victims.

**Victims of Abuse-** is very negative and threatening situation where it involves lot of unrecorded crime and every person is someway suffering from this. There are certain crimes which became very common for all i.e.– third degree methods, custodial torture, or death, hospital victims, custodial rapes, groundless arrest, so these are the victims which suffers alot. Crimes are not divided on the basis of gender or religion but can categorize under sub heads.

**Types of Abuse of Power:-**

Actually, abuse of power cannot divided upon any basis but we can divide victims upon majorly 3 heads-

1. Women
2. Child

3. Elderly.

**Women:** -There are various types of crimes happening with women. These crimes include:- dating violence, domestic and intimate partner violence, emotional abuse, violence against women at work, female foeticide and infanticide, gender indiscrimination, domestic violence, dowry, child marriages, forced marriages, sexual offences i.e. Rape, molestation, trafficking, forced prostitution etc.

Crimes affecting women has increased continuously from 2003. A total of 3,27,394 incidents of crimes against women, both under IPC and SLL, were reported during 2015 as compared to 3,37,922 during 2014.

Can we stop all these crime: -Yes, we can trace the roots of crime against women in socio-politico-economic structure in Indian society.

**Child:** Violation against child can be physical and mental abuse and injury, negligent treatment, exploitation and sexual abuse in the places such as homes, schools, orphanage, residential care facilities, on the streets, in the workplace, in prison and in place of detention. The child gets affected by these crimes thus impairing their mental, physical and social development.

One of the deadliest crimes is child sexual abuse in which an adult adolescent uses a child for sexual stimulation. Child sexual is divided into 3 types: sexual assault, sexual exploitation, and sexual grooming.

We have too much laws to protect child and its rights still abuse of power and corruption is not decreasing in fact increasing day by



day. In today's scenario parents became alert and conscious for their child.

**For Example:** now a days it is seen that children is beaten up by teachers in schools, to such an extend that the child falls down or got sick with scratches in his/her body. This is also a part of abuse of power. So there are various incidents but to define each and every thing is not an easy task.

There are various rights of child which got affected that in 2013 National Human Right commission directed the state government to report on the number of child labourers working in the hazardous coal mines in the district and to rehabilitate them.

**Elderly:-** In India, while children pursue education and other career building activities and adults and middle aged engage themselves in earning livelihood, the elderly lead a retired life. The elder ones has right to get care, support and comfort from their children and grandchildren. With the advent of modernity and globalisation and the accompanying phenomena such as industrialisation, urbanisation, the conventional living style has been undermined. Number of nuclear families has increased and elders are living alone. Because of these changes, elders feel isolated and became easy targets of criminals. In this context, Group of Economic and Social Studies (GESS), a New Delhi based NGO, as sponsored by Bureau of Police Research and Development, has conducted a study entitled – 'Rising Crimes Against Elderly People And Responsibility of Police in Metros', The study deemed 60 plus population as

elderly. Metros covered are Chennai, Delhi, Kolkata and Mumbai.

There are certain crimes which are not registered. Old age people or senior citizens are the victims of crimes against body, crimes against property, economic crimes, and even rape. According to Delhi police, relatives, domestic helps and persons known to victims commit around 40% of heinous crime against senior citizen. Others includes professional criminals, itinerate salesman and etc.

### **ROLE OF INDIAN JUDICIARY FOR BETTER TREATMENT OF VICTIMS**

General Justice means to involve prosecution, conviction and punishment of guilty in order to restore public order, security and respect for rule of law. And on the other side the victim survivors who go to the court for variety of reasons: the desire for the truth to be known, to speak for the dead, and to demand justice and accountability. The point is that both are essential and important aspect which needs to consider while giving judgment.

The police play a vital role in assistance of victims because the sufferers first pursue police when something wrong happened. Unfortunately, in India the police doesn't stand to meet the expectations of victims. In Bhopal, the very recent, **Bhopal IAS Aspirant Gang Rape Case**<sup>19</sup> here that girl, i.e. victim immediately rush to the police

<sup>19</sup> PIT, Charge sheet filed in Bhopal gang-rape case, INDIA TODAY (Nov. 16, 2017, 01:45 a.m.), <http://m.indiatoday.in/story/chargesheet-filed-in-bhopal-gang-rape-case/1/1091152.html>.



station to file FIR against the incident happened with her, but the police was confused that the incident covers which jurisdiction of police station and therefore, there was delay of 11 hours to file complaint. Later, four cops were suspended. So such behaviour of police towards victims forms the basis for negative perception of the justice.

Since the last few years, Judiciary is playing a prominent role for better treatment of victims by forming different committees and commissions to improve the existing situation of victims like the affirmative action by the higher judiciary, and recent laws for protection of special category of crime. But these rules are not implemented in its full sense. We have laws for the protection of victims but the Justice System is mostly emphasized on the accuse and not on the victim. In our opinion the laws of victimology is in paper only and therefore common man is still not aware of this. We are not criticizing the judiciary for this. The police and society took victims as granted, which needs to be changed. And the system should try to focus on both the sides by implementing the laws of victim and accused in its true sense.

### **NEED TO CHANGE THE PARADIGMS TOWARDS VICTIMS**

Healing Begins When You Shed the 'Victims Mentality'- **By Linda**  
Now, we know that in India we have sufficient laws in concern of victims, but the challenge is that we need to change the paradigms of society towards victims and implement the laws

regarding it. Following are the measures for the victimization in India.<sup>20</sup>

- The court proceedings must be free from unreasonable delay.
- The victim must be treated with fairness, dignity and respect.
- There must be separate law for victim in India having mandatory provisions in favour of victim as there are continuous efforts going on to enact the National Law for Victim.
- The police needs to be strict towards the criminal and fair with victims, because many times victim faces problems even in registration of a criminal case as it's depended upon the mercy of police officer.
- Corruption by police officials erodes the entire system, the society and victims. So, it's the responsibility of each and every citizen to take action against bribery and other such activities.
- There is need to bring awareness among the society and victims to raise their voice, because when a crime happen the investigation team look towards the number of victims who are affected by it. So, victims have to come out and claim for their right.
- The major challenge is implementation of the law, rules and regulation by government officials who are charged with the responsibility for implementations of laws when something wrong happened with the society.

<sup>20</sup> Shray Mudra, *Criminal Victimization Justice Administration in India*, JUS DICERE, <https://www.jusdicere.co.in/criminal-victimization-justice-administration-in-india-by-shray-mundra>.



- There is need to notified the victims about the court proceedings, or the arrest or release of the defendant.

The agencies of the Criminal Justice System should address the needs and issues of the Victims of crime sincerely and empathetically.

### **CONCLUSION:-**

“A judgment is incomplete if it lacks to provide justice to the Victims.”

As we have seen that people become a culprit, which vanishes humanity, we humans forget our moral and dignity, as we are seeing crimes happening in society at large, this is a complete trap where at once someone taped will never leave, which grabbed humanity. Every Indian should take effort to remove crimes from our country. India is in a shame and miserable condition that we Indians are not worthwhile to protect our mother, sister, wife, children and grandparents too. This is a bad face of India which should be corrected as soon as possible. As well as it is the duty of youth to stand against crimes and try to stop this otherwise it will destroy our beloved democracy. Women and Child Victims and Witnesses Encounter in Sexual Offenses Cases: Responds to our request for information on the particular problems that women confronted as vulnerable victims and witnesses in sexual offenses cases. Women encountered multiple challenges when they seek justice from the courts. And not only women but even environment became victim from all the offences done by humans. In this paper we had discussed dimensions of crime in depth and attempts to understand the presentation of crime into

various spheres in 21st century. Majorly we have focused upon criminal justice system in India and various crimes which affect the victims i.e. injury caused to person or property, victim of environmental offences, and abuse of power. We have to bring drastic change in society and mentality of people and should focuses upon the implementation of the rights of victim which has declared by UN declaration as, access to free and fair treatment with the statement that victim should be treated with respect and compassion and given right to redressal, restitution, compensation to victims and their family and assistance.

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