

AN ANALYTICAL STUDY ON THE ISSUES RELATED TO THE CRIMINAL-VICTIM RELATIONSHIP

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ABSTRACT:

Criminal science is the investigation of wrongdoing, and its basic role is to break down how crime happened and the explanation for its event. This study assists you with running over a few hypotheses connected with the reason for individuals carrying out violations and preventive estimates that policymakers can execute to deter them from doing as such. Likewise, with time thoughts to control wrongdoings hold developing because of a superior comprehension of human brain research.

More often than not, the emphasis is just on individuals who carry out the wrongdoing, which is just half piece of the entire episode. All in all, what is the other a portion of that goes disregarded? The other half includes the victim(s) of the criminal occurrence.

However all violations probably won't have unmistakable casualties, savage wrongdoings do have. To find out about the effect of the wrongdoing on the person in question, a subset of criminal science called victimology came into the image.

It sees wrongdoing according to an alternate point of view and includes the investigation of the connection between the person in question and guilty party, the casualty's job in the offense, and the equity framework. Its center isn't limited to individual or public casualties yet additionally considers denial of basic liberties casualties at a global level.

Victimology centers around the people in question and supports them. It depends on the possibility that the most ideal way to address wrongdoing is to zero in on recuperating as opposed to rebuffing.

KEYWORDS: Criminology, Victimology, Penology, Forensic Science, IPC

INTRODUCTION

Man is the only animal among all animals that has the capacity to feel and manifest guilt. A person feels guilty if he cannot act according to his beliefs or according to social norms. According to Freud, the human personality is made up of three elements: 'Id', 'Ego', and 'Superego'. Id means our animal instincts. He always craves 'joy'. He acts according to the 'pleasure principle'. 'Ego' means the concept of reality. Freud called the ego the element that makes a far-sighted decision as to whether it is right or wrong to satisfy instincts. It acts according to the 'reality principle'. While 'super ego' means conscience. During the social upbringing, we come to understand what is right and what is wrong, this is good and this is bad, this is right and this is wrong, this is moral and this is immoral, this is sin and this is virtue, then our 'conscience' (super ego) develops. The super ego acts according to the 'principle of morality'. Knowingly or unknowingly, if something inappropriate happens, it stings the 'super ego'. This only creates guilt.¹

Guilt is an unpleasant experience and hence one consciously or unconsciously tries to get rid of it. He devises some kind of defense or resorts to defense techniques to show that he was not at fault in what happened. If the burden of 'guilt' increases excessively, a person becomes a victim of 'guilt-complex'. People with such glands are guilty of everything and believe that all this happens because of their own weakness, helplessness, inaction and helplessness. A person's mental health is at risk due to the psychological pain of guilt. He suffers from psychosis. Individuals with excessive guilt tend to suffer from depression. Sometimes they even commit suicide. When parents hold high standards for children and children fail to live up to them, guilt develops in children.²

Guilt is a subjective experience. The amount of tension a person will feel in this experience depends on the person's upbringing and previous experience. Some people indulge in self-torture considering minor ejaculation as a 'great sin', while some habitual criminals do not feel guilty even if they commit a heinous crime. Psychotherapy can be taken to free a person from guilt.

Law of India relating to offenses subject to police-jurisdiction. This law is an instrument to protect some of the fundamental rights of an individual against violation by other persons.

¹ https://mafiadoc.com/measures-for-crime-victims-in-the-indian-criminal-justice-system_59ae53061723ddbfc5889207.html

² <https://www.livemint.com/Opinion/DWZTZTfYOScT8inQuPCHAO/A-case-for-lobbying-in-India.html>

Individual or personal rights are the set of rights of an individual relating to the security of his property, his liberty and to lead his own life.

Criminal law lays down certain rules for the safety of a person's life and property and for the protection of his civil rights and prescribes fines (punishments) for violation of these rules. It sets up a mechanism to execute the punishments. Indian Penal Code or Indian Criminal Law, Criminal Procedure Code and Indian Evidence Act, apart from various criminal laws and judiciary can be counted as examples of this.³

Criminal law is public law and is a branch of the science of criminology.

Which acts are considered punishable offenses and which are not depends on the governance system of the state and the thinking of the rulers at that time. The truth is that if there was no rule there would be no law, and if there were no law there would be no definition of a legal criminal. When a new penal law is enacted and enforced, acts which were not crimes before become crimes under the new law; For example, before the Dowry Prohibition Act was enacted and enforced, the act of dowry exchange was not a crime under the law. On the contrary, when an old penal statute is repealed, no criminal liability arises for subsequent commission of acts which were earlier punishable as offences. When regimes change or when the rulers' ideas or thinking change, the details and scope of penal law also change; That is why it is said that criminal law is a mirror of the civilization and culture prevailing at that time.

Criminal law is a branch of public law. It is related to different crimes. Criminal proceedings are initiated against the perpetrators of these offenses and the offenders are punished as per existing laws. An act or omission for which such proceedings can be initiated by the police is called a criminal offence. When a person's act is against the state or society, it is called a crime or a crime; But when such an act causes harm or injury to a person, it is called a delict; tort.

The origins of criminal law lie in the Law of Revenge.

Its aim is to limit the unrestricted and invisible horizons of human freedom in such a way that every person is treated on an equal footing and can perform his duties freely, without fear of any kind. Criminal law protects the weak against the strong and punishes those who violate the law. This function is based on the sanction of the law regime; It cannot be said that it hinders the freedom of man. Rather, human freedom becomes more expansive and orderly as a result.

³ <https://www.livemint.com/Opinion/DWZTZTfYOScT8inQuPCHAO/A-case-for-lobbying-in-India.html>

Criminal law introduces restrictions to prevent certain types of human activities, promulgates them and punishes the violation of such restrictions. Criminal law protects the rights and liberties of the individual on the one hand and on the other hand it protects the state and citizens against various harms. Thus criminal law is an attempt to find a legal golden mean between what are called mutually contradictory and conflicting interests.

Criminal liability: Being responsible for a crime means incurring criminal liability by one's own act. Such liability arises from a person not doing what he ought to do, and doing what he ought not to do (karyalopa). Criminal liability is a challenge the law has made to man, rooted in the supreme power of the state. One cannot ignore the challenge. He has no choice but to submit to it.

Criminal liability arose gradually. Initially the list of offenses was short, but in successive stages of development the judiciary and the penal laws were gradually improved. During this phase the following two principles of criminal law developed:

- (1) non-punishment if there is no evil intent to commit a crime;
- (2) To presume the accused innocent until proven guilty. There is a Latin maxim about the first principle: no crime is committed without an evil intention (actus non facit reum, nisi meus sit rea).

That is, a combination of evil intention and prohibited act constitutes a crime. The Indian Penal Code has accepted this principle. The physical element of crime is called actus reus and the mental element is called mens rea.

Different offenses are defined in the Indian Penal Code. It mentions both the act of the accused and his state of mind; E.g., the accused must have done some act knowingly, voluntarily, dishonestly, fraudulently or otherwise. Even where there is a need for intention or knowledge, what kind of intention or knowledge should be there is clearly indicated. Consequently, Indian criminal law employs both subjective and objective tests of responsibility.

In order to incur criminal liability the following must be proved should:

- (i) The conduct of the accused (act or omission),
- (ii) The existence of circumstances specified by law,
- (iii) The prohibited act was committed by the accused (specified result),
- (iv) The conduct of the accused was voluntary,

- (v) The act or omission of the accused There was awareness of the consequences of action.

The first three points are considered physical and the remaining two points are considered mental.

Crime : Mere violation of law is not a crime; E.g., breach of contract is not a crime; But doing an act which the law forbids, is a crime because the act offends the moral sense of the society according to the law. Although the ethical understanding of society varies across place, time, and circumstance, this simple statement is unable to define crime concretely or explain it well. Once upon a time the religious practice of Sati was accepted by Indian society, but today it is considered a crime. Yesterday's virtue may be today's crime and vice versa is equally true. Since the content of crime changes, it is difficult to define it chronologically. What is crime can be understood only from its description and discussion.⁴

Crime is different from moral wrong, civil wrong and breach of contract. The term 'moral turpitude' has a wide meaning, including crime; But not every moral turpitude is a crime in the sense of the law, and not every crime is a moral turpitude; E.g., driving on the left side of the road, stopping at a red light is a violation of the rules, but not a moral turpitude.

A felony is a more serious offense as compared to a civil offence. Certain civil offenses may also be felonies; E.g., defamation, defamation of character etc. But not all crimes are torts and not all torts are crimes. A citizen aggrieved by breach of contract may sue for compensation in court; But for the crime, the offender has to be punished through the court of law. Proceedings for civil misdemeanors aim to obtain compensation or damages, while criminal proceedings for felony aim to punish the offender. In short, it can be said that crime is an anti-social act of man which the sovereign power of the state seeks to prevent. Measures to that effect appear as state-backed threats or punishments. The steps or procedure by which the guilt of the offender is proved and a special type of procedure for the same is called criminal procedure.⁵

Before any act becomes a crime, it goes through the following stages:

- (i) intention,
(ii) preparation,

⁴<http://www.lawctopus.com/academike/victimology-emerging-trends-compensation/>

⁵ https://mafiadoc.com/measures-for-crime-victims-in-the-indian-criminal-justice-system_59ae53061723ddbfc5889207.html

- (iii) attempt and
- (iv) completion.

As long as an act is confined to the first two stages, it does not normally give rise to criminal liability; But when he passes through the third and fourth stages, such responsibility arises for the doer of such an act. Whether an act is in the second stage of becoming an offense or has entered the third stage is a matter of proof. At one time it was held that the attempt must result, i.e. the attempt to commit a crime must result in the commission of a crime; But this matter is not accepted because the effort does not succeed in every case.

The current approach to crime is functional, meaning that both the concept of crime and the law of crime are used for the welfare of society. According to the Wolfenden Committee Report (1958) the purpose of criminal law is to maintain public order and decency, to protect citizens from what is harmful and objectionable to them, to see that they are not exploited by other persons and to protect those who are in infancy, physically and mentally weak and Inexperienced they have to manage not to corrupt and degenerate others. Even so, it is equally true that law cannot have any purpose or function to interfere in the private life of citizens. Also, the law cannot be intended to impose a specific pattern of conduct or practice which is more than what is necessary to achieve the aforesaid objectives.

Indian Penal Code

After the arrival of the British in India, under Section 40 of the Charter Act of 1833, a Law Commission was appointed to formulate a common and uniform criminal law for British India. Thomas Babington Macaulay was its chairman and Macleod, Anderson and Millett were its members. This commission gave its report in 1837. It was passed by the Legislative Council on 6 October 1860 after various amendments. In the Calcutta Gazette dated It was promulgated on 13, 17 and 20-10-1860 and came into force on Made from 1st January, 1862. The Indian Penal Code is an invaluable gift of the British statesmen to India. It has been in force in India since 1862. It does not see the need for any particular changes in view of the changing times, although it calls for revision now that new offenses are emerging.

AIM & OBJECTIVE OF THE STUDY

1. To study Historical background Victimology.
2. To study Scope of Criminology.

3. To study Scope of Victimology.
4. To study Judiciary's contribution towards evolving Victimology.
5. To study the issues related to the criminal-victim relationship

HYPOTHESIS:

1. Criminology and victimology are two interrelated fields of study that focus on understanding crime.
2. Criminology deals exclusively with victims as they needed to be treated with empathy and justice under our criminal justice system.

SIGNIFICANCE & UTILITY OF THE STUDY:

The time is ripe to examine what progress has been made in this area and what new measures need to be taken and the need for training of newly admitted judges was acknowledged by all the High Court Judges. There is an emphasis on the need to review the progress made in that direction and take steps to check systematic ways of releasing children, juveniles and offenders under 21 years of age from imprisonment and releasing them on probation if parole among the offenders entering the jails. Economic, social and political justice envisaged by the Constitution of India can hardly be said to have been achieved until these reforms of the criminal justice system are fully implemented. Crime is a phenomenon that includes different types, classifications and causes of varying severity.

RESEARCH QUESTIONS:

1. What about Historical background Victimology?
2. what is Scope of Criminology?
3. What is Scope of Victimology.?
4. what about Judiciary's contribution towards evolving Victimology.?
5. What about the issues related to the criminal-victim relationship?

RESEARCH METHODOLOGY:

This research is based on secondary data only. Like books, Judgements, Articles Etc.

LITERATURE REVIEW:

1. Krishna Iyer J. in Rattan Singh v. State of Punjab⁶ lamented:

“In fact, redress to the victim remains the vanishing point of our criminal law. This is the deficiency of the system, which must be rectified by the legislative power.”

2. In Sukhdev Singh v. Lal Chand⁷ :

An analysis of the functioning of the Indian judiciary shows that the features of compensatory jurisprudence existed in India even before the United Nations Declaration of 1985., a Single Bench of the Punjab High Court ordered that “If the compensation is not paid within three months, the defendants would be called upon to serve the sentence imposed by the court of first instance...”. It was claimed that this case was not decided correctly. There may be a fine for failure to pay compensation. In Bhim Singh v. State of Jammu and Kashmir, it was stated that “the right to award monetary compensation by way of exemplary costs is now established by the decision of this court in Rudal Shah v. State of Bihar and Anr and Sebastian M. .Hongray against the Union of India.” Hussainara Khatoun & Ors v Home Secretary, State of Bihar, recognized victimization by abuse of state power.⁸

3. Art. 21 of Indian constitution:

The case considered the need to address and redress such a serious violation of basic human rights that it directly infringed the fundamental right to live with dignity under Art. 21 of victimology was mainly inspired by the liberal interpretation of fundamental rights in the Indian constitution. The judicial activism of the Indian courts has identified the rights of the victim in India and surprisingly, most of the people who had undergone victimization were criminals who were victimized during the criminal justice process. However, the jurisprudential contribution of the supreme court helps in the development of victimological jurisprudence.

4. Indian Evidence Act, 1872:

Although the development of victimology is mainly due to the judiciary, the legislator was not completely ignorant of this issue. The rules of evidence, as provided in Sections

⁶ 1980 AIR 84, 1980 SCR (1) 846

⁷ Criminal Revision 1218 Of 1984 Decided On, 27 August 1985 At, High Court of Punjab and Haryana

⁸ <https://lextechsuite.com/Sukhdev-Singh-Versus-Lal-Chand-1985-08-27>

151 and 152 of the Indian Evidence Act, 1872, protect victims and witnesses from being asked indecent, scandalous and offensive questions, as well as questions intended to annoy or harass them. insult them.

5. Criminal Procedure Code of 1973:

Under section 312 of the Criminal Procedure Code of 1973, criminal courts are also required to order payment of reasonable expenses incurred by the witness or complainant in attending court. Due to judicial activism, victims and witnesses are being provided with some protective measures during the trial, such as holding the trial and suppressing the identity of the victim.

SCIENTIFIC ANALYSIS OF CRIMES:

A science dealing with scientific analysis of crimes, control of crimes, form of punishments meted out to criminals etc.

A crime is a violation of a law duly adopted and enforced by any community at that place and time. Expected behavior of an individual in terms of social and cultural values alone cannot be called law. The definition of crime is not fixed or fixed, but relative.

Criminology is the study of laws, their implementation, their structure and the actions of agencies or institutions involved, types of crime, its causes, punishment, society's attitude towards criminals, etc. Criminology depends on the principles and findings of many physical and social sciences like biology, anthropology, physiology, geography, sociology, economics, psychology, psychiatry etc.⁹

A review of the causes of crime reveals no definite universal causes. Many reasons seem to be intertwined. In ancient times it was believed that crime was caused by ghosts. At the end of the eighteenth century, the wind of individual liberty swept through Europe in terms of which the belief that man commits crimes voluntarily for pleasure and is solely responsible for it spread. This statement was also not true. A human being is always enveloped by his circumstances. Apart from this, predictions were made along with crime statistics, geographical factors like climate, season, cold, heat, altitude etc.

⁹ <https://www.legalserviceindia.com/legal/article-11770-what-is-parallel-between-victimology-and-criminology.html#:~:text=Criminology%20focuses%20on%20the%20efficiency,they%20receive%20during%20le gal%20proceedings.>

The Italian scientist Lombroso developed the idea that attracted much attention in the nineteenth century. Crime is not only hereditary, but it is closely related to a person's mold, especially the shape of the head, facial features and mannerisms, he said. But this statement is not applicable in every case. According to other scholars, certain dispositions or behavioral possibilities are inherited, but crime does not occur if it is not stimulated by the environment.

Freud, Adler and Jung, who gained considerable names in the field of psychology in Europe, favored the theory of hereditary physical traits by conducting various experiments. There are two types of twins: (1) identical in appearance and (2) different in appearance. Such children are brought up in the same environment and brought up in different environments. Observing their development revealed several interesting things. The effects of both environment and heredity on the criminal psyche are acknowledged.¹⁰

Psychologists opened up new directions in understanding the causes of crime. The intimate family relationships of childhood have a significant impact on personality development and character formation. A lot of attention was given to conscious, subconscious and unconscious behaviors. A child's basic needs - to feel loved and secure - if not met, lead to many personality and behavioral complexes, which then lead to delinquency.

Sociologists have done important research in this direction and found that apart from childhood upbringing, society's attitude and policies are responsible for recidivism. Social causes include population density, family relationships, education system, industrialization, political system, law and judiciary, policing and management of prisons – all these. Along with this, personal characteristics like caste, color, religion, age, caste, intelligence score etc. are also involved in this matter.

A long-term comparative study of two groups of severely delinquent children and non-delinquent children was conducted in America, led by Sheldon and Eminor Gluck. His conclusion was that different causes affect the whole, and therefore crime cannot be predicted.¹¹

Following the gang leader, admiring him, being isolated from other social relations, disobeying parents, etc. are common in all children at some age. But this phase passes after adolescence.

¹⁰ <https://www.livemint.com/Opinion/DWZTZTfYOScT8inQuPCHAO/A-case-for-lobbying-in-India.html>

¹¹ Harkin, D. (2015). Police legitimacy, ideology and qualitative methods: A critique of procedural justice theory. *Criminology & Criminal Justice*, 15(5), 594-612.

Gang crimes are often more prevalent in certain delinquency areas of cities. Crimes are committed under the influence of friends or colleagues. Economic disparities between the upper and lower classes of the society are very visible and the youth of the lower classes do not see enough opportunities for development. They are drawn to crimes like theft etc. to obtain ostensibly gratifying objects.¹²

As a result of the disparity and gap in development between urban and rural areas, the people or communities who are drawn to the city by the hope of employment feel alienated and isolated for a long time; It becomes rootless. Crime is likely to arise from this kind of social disharmony.

PURPOSE OF PUNISHING AN OFFENDER:

The 'Directive Principles of State Policy' enshrined in the Constitution of India guarantees social, economic and political justice to the citizen. At the same time, 'fundamental rights' provide equality and freedom to the citizen, so that no citizen can be fined or punished without being duly convicted. A 'Declaration of Human Rights' covering these basic rights has been promulgated by the United Nations and other member states are bound to protect and implement these human rights. This individual freedom is the foundation of the edifice of any democratic system.

The purpose of punishing an offender should be to set a precedent in jurisprudence i.e. to deter others from committing crimes in the future and thereby not endangering the safety of the society. In the ancient society, the tendency of revenge worked behind the view of punishing the offender and the more serious the crime, the stricter the punishment was accepted. Through the new thinking of social defense, it is now accepted that the punishment to be given to a person after being found guilty is not only based on the type of crime, but after studying the personal facts and reasons of the crime, the offender should be punished and treated accordingly. Should be done, so that he does not fall into the vicious cycle of crime again. If the offender is found guilty, steps can be taken to reform and rehabilitate him. Capital punishment as punishment fails to achieve this purpose. There is no consensus in the world about its effectiveness. This punishment has been discontinued in some nations. But there are no clear indications of an increase in serious crimes. In this regard, a survey is done frequently by the United Nations.

¹² <http://www.lawctopus.com/academike/victimology-emerging-trends-compensation/>

The common citizen's attitude towards crime and criminals is not sympathetic. This is natural. He sees the criminal as a challenge to his security and property. He strongly believes that the offender should not be shown mercy, but should be dealt with strictly. He is of the opinion that the law should be made more stringent and the punishment of long imprisonment should be longer and thus the safety of the society would be better achieved.¹³

But this view does not hold true from a direct study of the current prison system. It is the experience of most countries of the world that prisons, no matter how many reforms are introduced, have not succeeded in changing human nature and behavior and should be used to a minimum. Prison is not a magical world, where sending any offender will improve. On the contrary, it is possible that the group of different offenders gathered together in the prison acts as a school for teaching crimes. In it, habitual criminals also get together with juveniles and youths who have committed their first crime, who are unaware of the intricacies of the law. The current trend of the Indian prison system is to ensure that the prisoner does not escape. It is no exaggeration to say that the individual question of the offender is not even called diagnosis or provision of appropriate treatment. This is why offenders should be given alternative punishment as much as possible. Other than jailing first-time offenders among children, teenagers and young adults should be adopted.

COMPENSATION UNDER THE INDIAN CONSTITUTION:

The Summit Court has constantly deciphered the Constitution of our country in a manner to safeguard life and freedom of individuals and maintain their privileges in the general public. One of the main Articles of our Constitution is Article 21. It has been deciphered in various ways by the Courts in India. The High Court has deciphered Workmanship. 21 in a way which likewise incorporates pay to casualties under its domain. In a milestone case, the High Court proposed that the Public Commission for Ladies ought to think of another plan which gives a necessary remuneration to survivors of sexual offenses.¹⁴

victims

The Law Commission of India has additionally upheld the idea of remuneration to casualties, through its numerous Regulation Bonus reports like the 142nd, 144th, 146th, 152nd, 154th, and the 156th Report, which are of noticeable quality in the area of victimology and casualty pay. Following different legal profession and Reports, the governing body added Segment

¹³ Harkin, D. (2015). Police legitimacy, ideology and qualitative methods: A critique of procedural justice theory. *Criminology & Criminal Justice*, 15(5), 594-612.

¹⁴ Delhi Domestic Working Women's Forum Vs UOI, (1995) 1 SCC 14.

357A to the Code of Criminal System Code in the year 2009.[8] In its 42nd Report, the Fifth Regulation Commission managed three examples of repaying a survivor of wrongdoing as reflected in the Crook Codes of nations like Germany, France, and Russia. The three examples are:

COMPANSATION BY THE STATE:

Remuneration by the guilty party by forcing a few assents.

Obligation to fix the harm brought about by the guilty party, i.e., compensation.

The idea of Victimology is acquiring significance in the field of Law enforcement Framework gradually. The Legal executive and the Governing body likewise need to invest somewhat more amounts of energy to help the development of the idea, on the grounds that however rules and arrangements exist, the situation of the people in question, in India as well as all around the world has not superior much (particularly in immature and emerging nations). The casualty is scarred for life as their situation in the general public changes because of the effect of the wrongdoing. It is the state's obligation to offset the sufferings of different casualties all around the country. In the event that the situation with casualties is mitigated, it would be the most vital phase in the decrease in wrongdoing and thus will prompt a specific measure of command over the violations.¹⁵

CONCLUSION:

1. Criminology and victimology are intertwined disciplines that offer valuable insights into crime and its impact on both offenders and victims. While criminology focuses on understanding the causes and patterns of crime, victimology provides a deeper understanding of the experiences and needs of those affected by crime. Together, they contribute.
2. The idea of Victimology is acquiring significance in the field of Law enforcement Framework gradually. The Legal executive and the Governing body likewise need to invest somewhat more amounts of energy to help the development of the idea, on the grounds that however rules and arrangements exist, the situation of the people in question, in India as well as all around the world has not superior much (particularly in immature and emerging nations).
3. The casualty is scarred for life as their situation in the general public changes because of the effect of the wrongdoing.
4. It is the state's obligation to offset the sufferings of different casualties all around the country.

¹⁵ <https://blog.ipleaders.in/victimology-separate-field/>

5. On the off chance that the situation with casualties is lightened, it would be the most important phase in the decrease in wrongdoing and subsequently will prompt a specific measure of command over the violations.

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